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BIENNIAL MESSAGE
OF
GOVERNOR COE I. CRAWFORD
TO THE
ELEVENTH LEGISLATIVE SESSION
STATE OF SOUTH DAKOTA

MESSAGE

OF

Governor Coe I. Crawford

TO THE

South Dakota Legislature

Eleventh Regular Session

1909

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BIENNIAL MESSAGE

Gentlemen of the Senate and House of Representatives :

A report from the Governor giving a general review of the conduct of the public business of the State since the adjournment of the tenth session of the Legislature on March 8th, 1907, and embodying suggestions and recommendations for consideration by the Eleventh Session, now convened, is herewith submitted to you.

CONDITION OF STATE FINANCES

In a young and rapidly growing Commonwealth like South Dakota, each succeeding session of the legislature is pressed hard by the representatives of its institutions and the growing demands of its officers, as well as by the needs of its people, for increased appropriations. Two years ago the legislature, in response to insistent and zealous appeals, based in most cases upon actual merit, increased the appropriations considerably above those made during the four years preceding. Some of the larger items entering into this increase were the following:

\$50,000 for a ladies' dormitory at the College of Agriculture and Mechanic Arts at Brookings ; \$18,000 for the enlargement of the dormitory, the erection of a brick or concrete smokestack and the construction of a sewerage system at the Madison State Normal; \$3,000 for a system of sewerage at the State Reform School at Plankinton ; \$8,000 for buildings on the experimental farm at Highmore; \$9,600 for the purchase of additional lands for the Hospital for the Feeble Minded at Redfield ; \$35,000 for new buildings upon the State Fair grounds at Huron ; \$60,000 for a new building for the Northern Normal and Industrial at Aberdeen ; \$5,000 for an addition to the girls' dormitory at the Deaf Mute School at Sioux Falls ; \$50,000 for a building for the law department of the University at Vermillion; \$16,500 for a Metallurgical Laboratory and a janitor's house at the School of Mines at Rapid City; \$55,000 for completing and equipping the main building and

for completing the attic and basement of the girls' dormitory at the Spearfish Normal; \$200,000 (conditionally) to be used, if needed in the erection of the new Capitol; \$10,000 to be used in the employment of experts to ascertain the actual cash value of the railroads in the state; \$2,000 for a lighting plant at the School for the Blind at Gary; \$46,500 for new building at the Asylum for the Insane at Yankton ; \$40,000 for a new building and improvements at the Soldiers' Home at Hot Springs; and \$10,000 for the Commissioner of Immigration to use in advertising the resources of the State.

To comply with the vote of the people at the preceding election, the last Legislature also authorized and directed the State Board of Assessment and Equalization at its annual August meeting in 1907, to levy a tax of one and one-fourth mills on each dollar of the assessed valuation of all taxable property in the State for the purpose of establishing, installing, maintaining and operating a hard fiber twine and cordage plant at the State Penitentiary at Sioux Falls, and it authorized the State Board of Assessment to levy a deficiency tax of 2 mills in 1907 and a deficiency tax of 2 mills in 1908.

To provide for the payment of the general appropriations for ordinary current expenses of the state administration, the State Board levied a state tax of 2 mills in each of the years 1907 and 1908, and also levied an additional mill in 1907 and an additional mill in 1908 to provide for deficiencies in revenues ; and in 1907, as directed by the Legislature, -it levied one and one-fourth mills for the installation of a twine plant at the Penitentiary, making the total levy of state taxes for 1907, four and one-fourth mills, and for 1908, three mills. While the above appropriations were reasonably necessary, and the State appears to have received full value for the money expended, the end of the fiscal year, June 30, 1908, shows an increased deficit which must be provided for by a deficiency levy in 1909, and it is the duty of this Legislature to firmly hold the appropriations within a limit that will enable the state to keep its expenditures within its income, and pay its outstanding warrants.

I grant, that with the growth of the state, and the increase in

the cost of living and of labor and materials, we cannot escape an increase in public expenditures, but we must not become too impatient and try to secure all the good things we are striving for at one time.

It is well to keep in mind the fact that the constitution places a limit upon the amount that can be levied for state taxes, and also upon the amount of bonded indebtedness that can be created by the state.

Section i of Article *XI* authorizes the levy of an annual tax sufficient to defray the estimated ordinary expenses of the state for each year *not to exceed in any one year two mills* on each dollar of the assessed valuation of all taxable property to be ascertained from the last assessment, and then provides that whenever it shall appear that the ordinary expenses shall exceed the income of the state for a given year, the Legislature shall provide for levying a tax for the ensuing year to pay the deficiency together with the estimated expenses of such ensuing year ; and prohibits the levy of more than two mills in any one year for the payment of the principal and interest on the public debt.

Section 2 of Article *XIII* provides that the state shall not contract debts to defray extraordinary expenses, or for *public* improvements, or to meet casual deficits or failure in revenue, which shall exceed, with previous debts, \$100,000.

Bearing these things in mind. *I* call your attention to what the State Treasurer says in his report for the fiscal year ending June 30th, *1908*. Among other things, he says

"The year just closed shows a balance of \$21,133.00 in the general fund as compared with X66,936.00 on hand at the close of the year ending June 30th, 1907. We also have \$154,317.00 in registered warrants at this time. At the close of the year ending June 30th, 1907, there were no registered warrants. At the close of the fiscal year 1907. we had outstanding:

Revenue Warrants	\$250,000.00
Cash on hand in general fund	<u>66,936.00</u>

Leaving a net indebtedness of	\$183,064.00
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At the close of the fiscal year, June 30th, 1908, we had outstanding:

Revenue Warrants	\$250,000.00
Registered Warrants	154,317.00

Total	\$404,317.00
Less cash in general fund	<u>21,133.00</u>

Leaving a net indebtedness, June 30th,

1908, of	\$383,184.00
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This shows an increase in our floating indebtedness during the year just closed Of \$200,020.00. * * * However, if the coming session will carefully consider all requests for new buildings and special appropriations of all kinds, use reasonable judgment for allowance for maintenance, we shall, in a very short time, pay up all indebtedness and be on a cash basis. Surely no prudent man, in the management of his private business, will plan on the expenditure of more than his possible income.

We realize the necessity for new accommodations and equipment for our state institutions, and believe in treating them all fairly and honestly, yet there should be a reasonable limitation to these expenditures."

The State Auditor in his report calls attention to the excess of disbursements over receipts and remarks : "This is largely due to the special appropriations made by the last Legislature for the erection of new buildings and additions to our state institutions, which seemed absolutely necessary at the time, but which should certainly obviate the necessity for further appropriations in this line at the next session of the Legislature.

Besides the indebtedness created during the fiscal year, there are \$250,000 of revenue warrants outstanding, bringing the total indebtedness of the state to over \$400,000. These facts should make it evident that strict economy in the management of state affairs is necessary. Great care should be taken that the appropriations do not exceed the State's revenue."

This situation in our finances is not an unusual one. It has followed every legislative session at which special appropriation's have been made for new buildings. For instance, at the end of the fiscal year 1904, after the appropriations for new buildings by the Legislature of 1903, State Treasurer Collins in his report called attention to the fact that there was a deficit in current revenues of \$16&907 with \$200,000 in revenue warrants outstanding and remarked: "After redeeming the above Revenue Warrants maturing next January, there will be a deficit in our General Fund of \$300,000, and this amount will be increased to about \$500,000 by the time the next legislature adjourns". He adds: "The last legislature having made liberal appropriations for new buildings and

improvements on others at so many of our state institutions, these institutions * * * can easily get along for another biennial period without the expenditure of large sums of money for additional buildings and other improvements." Following his suggestion, the legislature of 1905 made no appropriations for new buildings and was enabled thereby to reduce the outstanding warrants so that on January 8th, 1907, at the beginning of the administration now closing, the net liability of the State was \$212,983.04. The State Treasurer at this time (December 8th), estimates that at the time the incoming administration takes the reins of state government, this liability will have been increased to \$473,765.41, an increase since January 8th, 1907, of \$260,782.37. He says, however, that the funds available from the tax collections for the quarter ending March 1st, 1909, will reduce this amount materially, and that if we use the figures representing taxes collected for that quarter last year, our net floating debt on April 1st, 1909, will be reduced to \$250,000 revenue warrants and about \$175,000 registered warrants, and adds: "Taking into consideration the great increase in valuation of 1908 corporate and real property over the same property in 1907, we can expect much greater collections during the March tax collections, than were received at the same period last year."

Notwithstanding the fact that the constitution has placed a firm limit upon the levies which may be made for state revenues, and notwithstanding the fact that only two years ago liberal appropriations were made for new buildings for the institutions, the reports submitted to the Governor for the biennial period now ending, show a list of new demands which the condition of the state finances makes it imperative to postpone. We cannot and we must not undertake to do all these things at once. The heads of the several educational and penal and charitable institutions, including the Soldiers' Home and the Boards of Control, recommend special appropriations amounting in the aggregate to more than a million dollars, not including the amounts recommended by the State Capitol Commission as necessary to enable it to complete the erection, furnishing and equipping of the half completed building.

Do you not readily see how impossible it is to comply with

these requests? The specials recommended include \$345,000 for the University; \$50,000 for the Normal at Aberdeen ; \$6,000 for the School of Mines; \$185,700 for the College of Agriculture and Mechanic Arts at Brookings; \$96,000 for the Normal at Madison; \$35,500 for the Normal at Spearfish ; \$60,500 for the Asylum for the Blind at Gary; \$69,500 for the Hospital for the Insane at Yankton; \$127,000 for the Northern Hospital at Redfield; \$15,000 for the Penitentiary at Sioux Falls ; \$40,000 for the Soldiers' Home at Hot Springs, and \$4,000 for the Training School at Plankinton. I do not wish to be understood as maintaining that these new buildings will not some day be necessary, but I do say that to ask of this Legislature that it,-so soon after the liberal appropriations of two years ago, and while it has the burden of providing for the completion and furnishing of the new capitol building upon its hands,-undertake to meet these demands for special appropriations, is to ask of it what is unreasonable and impossible, under the circumstances. Those who made the recommendations, no doubt, acted in good faith, but without full information as to the general situation.

In order that you may more fully understand the necessity for the most rigid economy and the paring down of the appropriations, I will, in this connection, submit a general statement in regard to the capitol building project.

THE NEW STATE CAPITOL

The State Capitol Commission has made a full and detailed report of its proceedings up to the date when, under the law, it was required to file its report, October 31st, 1908. This report is one of the most important documents you will be called upon to consider and I earnestly request that you give to it your best thought and attention. This report shows that under the original Capitol Building Act, passed by the Legislature of 1905, the first Capitol Commission procured from Messrs. Bell and Detweiler, architects of Minneapolis, plans and specifications for the capitol building and approved and accepted the same, entering into a contract with the architects to supervise the erection of the entire building. It built the foundation for the east wing but did not proceed further. The Government of the United States, in the Enabling Act under

which South Dakota was admitted into the Union, granted to the state 82,000 acres of land for the erection of public buildings at the capital. No restraint as to the time these lands may be sold, the price, or terms of sale, were imposed either in the Enabling Act or in our State Constitution. Their disposal was left entirely within the power of the legislature. The first Capitol Commission received from the sale of lands and other sources the cash sum of\$102,101.77 and it expended the sum of17695.94

leaving in the hands of the State Treasurer\$84,405.83

Besides this, it had on hand \$1520.58 still in the hands of County Treasurers, and there was due the further sum of \$46,402.84 on deferred payments.

Of the more salable quality of lands, it had sold 12,617.38 acres at the average price of \$10.32 per acre, or for \$130,164.00.

The number of acres remaining unsold when the present Capitol Building Commission was created was 69,380.48, situated in the counties of Butte, Fall River, Meade, Pennington, Edmunds, Faulk, Hand, Hyde, Sully Potter and McPherson.

The legislature of 1907 amended the Act of 1905 by authorizing the Commission to enter into a contract for the erection of the entire building at a cost of not exceeding \$600,000, and for the purpose of raising funds, the amended Act authorized the Commissioner of School and Public Lands to sell and dispose of sufficient of the lands until the sum raised by sales and rentals, together with the amount then in the treasury already realized from sales and rentals, or thereafter received from sales and rentals theretofore made, shall amount to \$600,000. It provided that the lands should be appraised in the manner provided for the appraise of school lands, that the same might be sold for cash, or part cash, and balance on deferred payments, secured by first mortgage on the land sold; that the Commissioner should have the power to sell the mortgages without recourse, for not less than their face value and turn the proceeds into the capitol building fund in the state treasury. All funds received on account of the public buildings lands to be paid over to the State Treasurer and placed in the capitol building fund and appropriated for use in erecting the

building. The Act authorizes the issuance of warrants upon this fund and provides that if there be no moneys in the fund when any of said warrants shall be presented, they shall be registered and paid in the order of registration and shall draw interest at six per cent. per annum, payable semi-annually on the first days of January and July in each year, out of the same fund, and that said warrants shall be a first lien upon all the unsold portion of the public buildings lands, and that said lands shall remain charged with said lien until they are sold and the proceeds thereof covered into the capitol building fund; provided, that when any tract of land is sold and the proceeds covered into the fund, said lien shall be deemed released as to said tract. The act further provides that in case the proceeds from the sale and rental of these lands paid into this fund shall on the first day of December, 1908, be less than \$600,000 in the aggregate, then and in that event, outstanding registered warrants theretofore drawn upon the capitol building fund, shall in an amount not exceeding \$200,000 be paid and redeemed out of the general fund of the state, and for the purpose of paying the same, the Act declared: "There is hereby appropriated out of any money in the state treasury not otherwise appropriated, the sum of \$200,000 or so much thereof as may be necessary to aggregate the sum of \$600,000. Said appropriation from the general fund shall be for the fiscal years 1908 and 1909."

As ' will appear later in this message, no warrants upon the capitol building fund have yet been registered and unpaid and consequently, no part of this \$200,000 out of the general fund was required on December first.

On the 4th day of June, 1907, the Commission, after due notice, accepted the bid of Mr. O. H. Olsen of Stillwater, Minn., for the construction of the building and of Messrs. Hess and Rau of Watertown, S. D., for the heating and plumbing. Pursuant thereto, it entered into a contract with Mr. Olsen for furnishing materials and labor and erecting the building according to the plans and specifications for \$540552.00, the same to be completed on or before July 1st, 1910, and with Hess and Rau for the furnishing of labor and materials and the construction of the heating and plumbing for the sum of \$38,000. Contractor Olsen began

work under his contract in July, 1907, and the construction has been going on very satisfactorily since then. The cornerstone was laid with impressive ceremonies by the officers of the Grand Masonic Lodge, accompanied by a splendid address by Hon. W. H. H. Beadle on June 25th, 1908. The building is now quite far advanced, the walls have been erected and the roof, with the exception of the dome, is nearly all on. Mr. Olsen expects to complete his contract by January 1st, 1910.

The present Commissioner of School and Public Lands has

sold27,950.67 acres,
and his predecessor sold 12,617.38 acre; ,
making total acres sold40,568.05 leaving
unsold 41,431.95 acres of the public buildings lands. Every acre of these
lands east of the Missouri River, has been sold. The lands remaining are
located in Fall River, Pennington, Meade and Butte Counties.

The total amount received as proceeds of the sales of the public
buildings lands, and from rentals and interest on deferred payments,
and including amounts evidenced by mortgages and contracts not yet paid
is \$403,707.92

Total amount already paid Out is\$293,195¹⁰

Balance of proceeds of sales \$110,512.82

RESOURCES

Unsold lands41,431.95 acres.

Available proceeds of sales remaining \$110,512.82

From these figures it will be seen that it will take \$200,000 more than what has been realized from the lands up to this time to pay Olsen and Hess and Rau for the completion of their contracts. As I have already explained, the \$200,000 appropriated by the legislature of 1907 is not available because no warrants were registered against the capitol building fund prior to December 1st, 1908, and not paid for want of funds; and the \$200,000 was to be applied only in the payment of such warrants as were registered prior to that date. Besides, this appropriation will lapse at the end of the fiscal year, June 30th 1909.

The Capitol Building Commission calls attention to the fact

that much of the land remaining unsold cannot be sold at the present time without great sacrifice, because it is located a long distance from the railroad. The great bulk of it is in Butte County, seventy-five miles away from a railroad. It is excellent land and will be valuable in a few years, but to force its sale next year, will involve a great sacrifice and loss on the part of thy state. The lands in Meade and Pennington Counties are located near the railroad and the Commissioner will probably be able to sell them next year, but it is doubtful if he can secure by such sales more than \$75,000 and in order to enable the Commission to pay the sums necessary yet to be paid to Contractors Olsen and Hess and Rau, it will be necessary for the legislature to continue the unused appropriation of 1907 and make the same available during the years 1909 and 1910. The erection of the new capitol building is a work in which the state is now actually engaged. The unsold lands afford ample security for every dollar required to be advanced by the state and it is the plain duty of this legislature to provide for the conclusion of this unfinished work before beginning new buildings at other places. We cannot get away from this now that we have carried it so far and so well. The state must finish the work creditably, so that we will have a just pride in this splendid building as one in keeping with the dignity of our great and growing young Commonwealth.

But to do this, as shown by the report of the Capitol Commission submitted to you, requires substantial additional appropriations for matters not covered by the contracts of Olsen and I-less and Rau. But this is not all. The construction of the main building and boiler house by Mr. Olsen and the installation of the heating and plumbing by Hess and Rau, and the sums they are to receive for the performance of their several contracts do not, by any means, cover all expenditure that is yet necessary before the capitol building is completed, equipped and furnished, suitable for the purposes for which it is intended. The following large ge items of necessary expenses are not included in either of the contracts named

1. The building of a 400 foot tunnel from the main building to the boiler house and the piping of the same.

2. The furnishing of electric fixtures for the entire building.
3. Frescoing and mural decorations.
4. Metal fixtures for the different vaults and metallic casings and frames for the state law library and for the Historical Library.
5. A complete outfit of office furniture for each office, including carpets, matting, cuspidors, railings, chairs, desks and the like.
- 6: Grading, filling and landscaping of the grounds.

Besides these items, not covered by the contracts named, the Capitol Commission, as you will see in its report under the head of recommendations, unanimously recommends that certain changes be made in the interior finishing of the building, as necessary to the harmony of effect, the beauty and good taste, which should be observed in a building of this character. For instance, the original plans and specifications require that the grand stairway, which will be a striking and conspicuous feature in the interior, shall have marble treads with cast iron risers and cast iron railings and balustrades; also that the railings in the main dome, and at the end stairway, shall be cast iron. They also call for the use of an imitation marble for wainscoting. The use of cast iron and of imitation marble for these purposes will give a cheapness to the appearance of the interior of this beautiful building that will spoil the effect of the whole, and its use will be a serious mistake.

The Commission unanimously recommends the substitution of real marble, Vermont white, or some other marble of equal quality and beauty, for the cast iron and imitation marble in these places—a change which will increase the cost about \$20,000, for which, legislative authority must be given.

From the figures and invoices furnished by the architect, Mr. Bell, the amounts which must be provided for, these items not covered by the contracts of Mr. Olsen and Hess and Rau, are as follows

Building and piping the tunnel to power house	\$ 13,000
Electric fixtures for the entire building	21,000
Frescoing and mural decorations	40,000

Metal fixtures for vaults and metal casings and fixtures for the two libraries	35,000
Complete outfitting of furniture, carpets, etc., for all offices	45,000
Filling, grading and landscaping of grounds	30,000
Interior changes to marble	20,000
Total	\$204,000

This means that the state must still raise an additional sum of \$400,000 to fully complete, furnish and equip the new capitol building and fill up, grade and landscape the grounds. For this purpose it still owns 41,431 acres of land, most of which cannot be sold for a number of years without substantial loss. To meet this emergency, the Capitol Commission recommends that the un used appropriation of \$200,000 from the general fund made by the Legislature of 1907 for the fiscal years 1908 and 1909, be reap propriated by this legislature in exactly the same manner and made available for the fiscal years 1910 and 1911 ; and further, that this legislature authorize the sale of one hundred thousand dollars i:: capitol building bonds to run for ten years, to be used by the state and paid out of a regular sinking fund to be reimbursed, how ever, out of the proceeds of the sale of public building lands when ever the same can be sold without unnecessary loss to the state.

The Commission believes that if the Legislature will come to its relief as here suggested, the Commissioner of School and Public Lands can sell enough of the lands next year for adequate prices to enable the Commission to fully complete the capitol building project in a manner entirely creditable to the state. The necessity for the early completion, furnishing and equipment of the building is imperative, because the inconvenience and danger connected with the occupancy of the old building have become intolerable. The hazard of loss by fire, which would be irreparable, is so great that unnecessary delay in preparing the new building for occupancy would be criminal neglect. The new capitol building, will when completed, answer the needs of the state for one hundred years to come. It may be found necessary in a few years to erect a separate building for the accomodation of the Supreme Court and law library, but when that is needed, the unsold

public buildings lands will easily pay for it. We have plenty of ground-more than most states own for capitol grounds.

Our building, it is true, does not pretend to come within the class to which the great capitols of Minnesota, Wisconsin, New York and of the other older and richer states belong ; but in its class and type, taking into consideration the modest sum it is to cost, it will be the best capitol building of its kind in the country.

Different plans for landscaping the grounds are being proposed, some of them very elaborate and expensive.

Let it be understood that the Capitol Commission has not committed itself to any plan as yet. The landscaping should not be so elaborate and expensive as to be out of proportion to the character of the building; and regard must be had for expense. I do not believe that more than \$25,000 or \$30,000 should be • expended for this purpose. I recommend the exercise of the greatest care and the closest scrutiny in matters proposed involving lavish expenditure upon the grounds out of keeping with the modest character of the building erected, and out of keeping with the state's finances and its duties toward the other institutions intrusted to its care.

ASSESSMENT AND TAXATION

A discussion of the condition of the finances of the state and of the expenses connected with the building of the new capitol, also the appropriation of public moneys, leads to a consideration of our system of assessment and taxation.

Under the law passed by the Legislature of 1907, relating to the assessment and taxation of the property of railway, telegraph, telephone, express and sleeping car companies, the State Board of Assessment has been able to procure much additional information regarding the value of the property of railways and other public service corporations in the state, and to assess the terminals and structures of the railway companies situated within the limits of incorporated cities and towns. The law has proven to be a most excellent one.

In 1907 the Board raised the assessment of the express companies from \$139,298 (the assessment of 1906) to \$251,177, and in 1908 it raised the assessment to \$328,365-an increase of nearly 40 per cent. over 1907.

In 1907 it assessed the property of railroads at \$21,654,700 an increase of 44.71 per cent. over the valuation of 1906 (which was \$14,962,560) and in 1908 it assessed railroad property at \$28,202,467, 202,467, an increase over 1907 of 30.23 per cent.

In 1907 it equalized the valuation of lands at \$160,130,428, which was 19.89 per cent. higher than 1906, when the value was equalized at \$133,556,806, and it raised the assessment of town lots 4.37 per cent. above the valuation of 1906. In 1908 it equalized the valuation of lands at \$172,608,646, which is 7.78 per cent. higher than the valuation of 1907, and it raised the assessment of town lots 6.55 per cent. over 1907.

While the constitution contemplates that all taxable property shall be assessed at its full cash value, it is notoriously true that local assessors assess it at from one-fifth to one-third of its actual cash value, and this assessment is equalized on that basis by the city and county boards of equalization. In performing its duties as a State Board of Equalization, the State Board is limited by law as to the extent to which it may raise the aggregate valuation of the taxable property of the state. The State Board, when it comes to assess the property of the railroads, express, sleeping car, telegraph, and telephone companies, must apply the same average ratio to true value that is applied to the assessment of other property, because Section 2 of Article XI of the constitution declares that the rules prescribed by the legislature for the appraisal and assessment of property in the general law must be such that "every person and corporation shall pay a tax *in proportion* to the value of his, her or its property."

In attempting to comply with the spirit of this declaration of the constitution, the State Board aimed, in assessing corporate property, and in equalizing the assessment of other property, to apply a rule by which, so far as ascertainable, all classes of property would be assessed, at one-third of the full value. In applying this rule in 1907, it equalized the assessment of shares of bank stock at 40 per cent. of their par value, contemplating, of course, that surplus and undivided profits would be returned and assessed. The effect of this was a reduction of 19.07 percent in the assessment of this class of property below the assessment of 1906. In

1908, it having been made to appear that, as a rule, no return had been made of undivided profits and surplus by the banks, the State Board raised the assessment of shares of bank stock over 1907 \$816,228, an increase of 34.9 per cent.

In applying the same ratio of value to personal property, as returned, the State Board, in 1907, raised the assessed valuation of all personal property 19.89 per cent. above the assessment of 1906, and in 1908 it raised the assessment of all personal property over the valuation of 1907, 4.07 per cent.

The general results are, however, far from satisfactory. Owing to the incomplete, and often misleading character of the returns made, and the unreliability of information received, injustice is frequently done to individual owners by the action of the State Board. A very large amount of property is not returned at all and consequently escapes all the burdens of taxation.

Millions of dollars deposited in the banks or loaned out on interest bearing securities are not listed by the assessor and cannot be reached by the State Board.

In 1907 Aurora County returned in moneys and credits \$5,000; Lawrence County \$25,66; Beadle County \$16,283; Moody County \$5,250; Grant County \$3,455 ; and the total amount of moneys and credits returned from all the counties was \$1,²²⁶,493.

In 1908 Lake County returned in moneys and credits \$15,200; Lawrence County \$17,724; Minnehaha County \$101,566; Brown County \$65,190; Pennington County \$250; Roberts County \$1,906; Brule County \$300; and the total of moneys and credits returned from all the counties was \$1,261,858. Not a single credit under the name of a note or a mortgage was listed.

On the other hand, the report of the Public Examiner sets out an abstract of consolidated statements of State, Private and National Banks doing business in South Dakota, compiled from statement of state and private banks of June 2nd 1908, and statement of national banks of May 14th 1908, from which it appears that upon the above named dates the following amounts were on deposit in the banks of this state

Deposits subject to check	\$36,096,211.30
Certificates of deposit	18,869,211.71
Certified checks	106,140.29

Total	\$55,071,563.30
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It does not appear that one dollar of this fifty-five million dollars deposited in the banks was listed for taxation.

Besides this, thousands of our people have money loaned upon real estate and chattel securities amounting to many million dollars which escapes taxation.

Besides this, there is another class of property that cannot be adequately assessed by listing and placing a value upon the physical property returned by it.

For instance, the American Express Company owns a piece of real estate and some express wagons and horses, also some safes and office fixtures in South Dakota, which it lists and returns to the State Board of the value of \$8,883.60, and this is all the tangible property belonging to it situated within the state. yet under the protection of our law and the right to do business herein extended to it as a foreign corporation, it received last year from its business wholly beginning and ending in the state, after paying one-half its receipts to the railway company, \$66,226.47. If the State Board were limited to a consideration of its physical property in the state and could not consider its income and its license to do business in the state, an attempted assessment of this corporation would be a farce. The State Board assessed it at \$13²,450.

The same is true of many other classes of property. For example, take mineral lands. Without regard to its productivity, it is impossible to make a fair assessment of mineral land. A mine with expensive machinery, but no paying ores and standing idle, is a different thing entirely from a mine whose output runs into the millions each year. The same difference exists between shares of bank stock. The book value of one may be \$400 per share; of another, par; of another, only \$80; and an assessment of each at 40 per cent. of its par value is unjust.

The revenue law of South Dakota does not furnish a remedy for these glaring defects, which, more than once, have made members of the State Board of Assessment and Equalization sick at heart. I heartily agree with the outgoing State Treasurer in the advocacy of a law creating a non-partisan, appointive Tax Commission. The proposed amendment to the constitution, submitted

to the voters by the last legislature and rejected by them, had in view a change in the organic law which would permit a graduated or progressive tax upon incomes and inheritances and contained some excellent provisions. The fatal defect in it, and the one which undoubtedly caused its defeat, was the proposed removal of the limit of taxes levied for state purposes to two mills for estimated ordinary expenses and requiring legislative authority for deficiency levies.

To remove this limit would be a mistake. The proposal to permit subjects for taxation to be classified and requiring the taxes to be uniform on the same class, was a good one. It was not intended that one class of property should pay a higher tax rate than another, but it did intend to provide for a classification of such subjects of taxation as insurance companies, express companies, telegraph companies, and the like, as would permit a taxation of their incomes, because that is the only method by which they can be adequately reached for purposes of taxation. This whole subject is one of such far reaching importance and involves so much careful investigation and work, that I am convinced that we should follow Minnesota and Wisconsin, where a non-partisan tax commission has worked out the problem to the satisfaction of the people.

This will fail, however, unless it is strictly non-partisan, and unless the members of the Commission are selected solely because of their qualifications for the very difficult and responsible work entrusted to them. The time has arrived when this matter should be dealt with carefully and effectively and it is respectfully submitted to you with the hope that you may be able to give to the people of the state the most approved statute upon the subject yet enacted.

There would doubtless be difficulty in getting men adapted for this work to serve for the salary that such a law would authorize. The salaries received by our state officers are so low that it might seem an unjust discrimination to pay a competent tax commissioner more, and yet a competent man will not do this work for such poor pay and an incompetent man would be worse than useless.

While dealing with this topic, your attention is called to

Chapters 40 and 42 of the Session Laws of 1905, both of which are excellent statutes, but cannot be made effective without an appropriation that will enable them to be executed. The first of these statutes makes it the duty of the State Board of Assessment "to take such means and measures as it shall deem proper and expedient to ascertain, discover and place upon the proper assessment rolls and tax lists all taxable property in any county omitted from such assessment rolls and tax lists, or which has been omitted or canceled from the assessment;" the second provides for an annual meeting of the county auditors of the start with the State Board of Equalization for a conference in relation to assessments for the purpose of securing uniformity in rates of valuation in the several counties.

By an effective appropriation to secure the carrying out of these statutes, they can be made to serve a very useful purpose in matters relating to assessment and taxation.

PUBLIC SERVICE CORPORATIONS

Since the enactment of the law of 1907, relating to the assessment and taxation of corporate property, the public service corporations have been taxed upon much higher valuations than before and I believe they are now paying their reasonable share of the public taxes. The connecting track law, the double damage laws, relating to killing of stock and losses caused by fires, the fellow servant law, the law limiting the hours of continuous service, the reciprocal demurrage law, anti-pass law, anti-lobby law, primary election law, and law making it a crime for corporations to make contributions to political parties or to party candidates or committees, removed most of the abuses of which the people justly complained; under these laws, which are working well, the corporation has been removed from political power in South Dakota. No reasonable person wishes to do an injustice to the railroads. We need them and they need us and a spirit of mutual fair dealing should prevail between them and the people. I regard it as unfortunate that the railway companies having lines in South Dakota did not comply with the law of 1907 and the order of the Board of Railroad Commissioners there under, fixing the maximum passenger fare at two and one-half cents per mile.

The railway companies-after sending their representatives to the capital two years ago-who admitted before the legislature that the average rate they were voluntarily charging in the passenger service was only two and one-fourth cents per mile at a time when they were carrying a large number of privileged persons for nothing-saw fit, after the free pass system was abolished and every one required to pay fare, to go into the Federal Court and procure a temporary injunction against the enforcement of the order fixing the maximum fares at two and one-half cents per mile. It is worse than useless to attempt to convince the people that two and one-half cents per mile is confiscatory when the passenger trains in this state are crowded daily and when these same railroads are carrying many of the same passengers in Nebraska, Iowa and Minnesota for two cents a mile. It is just such conduct as this that creates a feeling against the railroads on the part of the people. The result is that all political parties and factions in 1908 joined in a demand that this Legislature pass an absolute act, with an emergency clause attached, making it effective at once, fixing the maximum passenger rate between points in this state at two cents a mile. The people have spoken on this subject and your duty is plain.

Platform promises must be kept if we expect to hold the confidence of the people who place us in power.

The platform of the dominant party in this state adopted in the state convention at Mitchell last July also declares in favor of a law giving to "the Board of Railroad Commissioners of this state the power to control classifications and a law requiring that a rate or classification once established between points wholly within this state, shall not be advanced without notice to the Board of Railroad Commissioners "

It also declares in favor of a sufficient appropriation to enable the Board of Railroad Commissioners to fully complete the work of ascertaining the true cash value of the railroads in this state. It further declares that "the railroad freight rates west of the Missouri River are so excessive as to amount in many cases to extortion and we demand a two cent passenger fare and the reduction of express and telephone rates in this state."

Logically the ascertainment of the true cash value should be ascertained before arbitrary laws are passed or orders made fixing rates. This is the foundation upon which all rate making must rest.

BOARD OF RAILWAY COMMISSIONERS

Your most careful consideration of the annual report of the Board of Railroad Commissioners for the year ending June 30th, 1908 is asked. Through the effective service of that Board many of the excessive charges on freight traffic to points west of the Missouri River-particularly the outrageous charges on emigrant movables-have been very materially reduced; a new and cheaper classification has been made; connecting tracks at junction points have been ordered and put in; many specific complaints have been heard and relief granted.

The Commission has sincerely and earnestly given its best service to the shippers of the state. During the year, 129 complaints were investigated, of which 75 were decided in favor of the complainants, 27 in favor of the defendants, and 20 dismissed for want of jurisdiction, or on account of withdrawal of the complaint. Through the efforts of the Commission during the year, coal sites have been secured for dealers; stock yards have been built and improved; side tracks to elevators and mills have been constructed; new sidings have been put in, and new stations established; depots have been reopened and agents installed therein; telegraph service has been resumed and telephone service installed at different stations; cars have been secured for shipment of livestock, lumber and household goods; and improved refrigerator car service secured.

After a thorough and exhaustive investigation of the whole matter of freight rates, and after careful consideration, the Commission, on April 10, 1908, adopted a resolution which became effective on and after May 9th 1908, and which established a schedule of freight rates for the transportation of freight and cars between stations west of the Missouri River and between any station east of the Missouri River and any station west of the Missouri. It classified the railroads extending into the country west of the River and adopted the western classification as the South

Dakota classification of all freights transported upon the roads so classified. You will find this schedule in the report of the Commission.

By it, a material reduction was made in the rates of emigrant movables, the previous high rate having caused much well founded ^{cc--7-plaint} anal dissatisfaction. The Commission also b_; n earnest appeal induced the companies to materially lower the rates on emigrant movables coming from points without the state into the territory in the state west of the Missouri River. To show specifically what was accomplished by the adoption of the schedule which became effective on May 9th in the reduction of the rate on emigrant movables alone, I quote the following from the report of the Commission

"Following are the old rates and the new rates on emigrant movables and the amount of reduction in cents per hundred pounds, for given distances:

	25 miles	100 miles	200 miles	300 miles	400 miles	Old rates
.....	11	.19	.31	.43	.56	
New rates .....	.06	.14	.15	.17	.24	
Reductions .....	.05	.05	.16	.26	.32	

In other words, this reduction means a saving on a car load of 20,000 pounds of emigrant goods of \$10.00 for twenty-five and one hundred miles; \$32.00 for 200 miles; \$52.00 for 300 miles and \$64.00 for 400 miles.

The reduction of the rates on merchandise classes made in the same schedule varies from 8% to 40%, the largest reductions intended to be on the classes most largely moved."

The Commission also reports that it has been successful in securing reduced rates between points west of the Missouri River and points east thereof within this state on stucco, cement, coal, grain and flour, and on hay and straw to central markets, and that it has under consideration reductions on certain other commodities. That upon the complaint of South Dakota millers of excessive freight rates on flour in car loads to stations on the Pacific Coast extension of the Chicago, Milwaukee and St. Paul Railway Company, it secured a new tariff on freight on this commodity in car loads effective on state traffic June 27th, and on interstate traffic effective July 29, 1908, reducing the rates in amounts varying from 30 percent to 50 per cent. The rates on interstate

traffic into the state are too high, but this legislature, as well as the State Railway Commission, has no control over them.

Much credit is due to the Board of Railroad Commission,; for this splendid service which has in a large manner satisfied the demand for legislative action as to the reduction of freight rates between points wholly within the state.

The rate is still high upon merchandise of less than 100 pounds weight and the Commission will, no doubt, have occasion to make a further reduction upon this class.

ASCERTAINMENT OF TRUE CASH VALUE OF RAILROADS

The Legislature of 1907 appropriated the sum of \$10,000 for the purpose of enabling the Board of Railroad Commissioners to ascertain the true cash value of the railroad lines within the state. For this purpose, the Commission engaged the services of Mr. C. C. Witt., an experienced engineer; Dr. Homer M. Der, Professor of Civil Engineering at the College of Mechanic Arts at Brookings, and Mr. E. F. Swartz, for many years the efficient deputy state auditor at Pierre.

This work has been going on for some time and is reported in detail by the Commission, who state, that when the work is concluded, they believe this state will have a more complete and correct valuation than has ever been secured by similar bodies in other states. There are 4,000 miles of railroad in South Dakota. The ascertainment of its actual cash value is the first necessary and important step in proceeding to fix its fair proportionate share of the public taxes and in determining the reasonableness of its tariffs. The sum appropriated by the last legislature is not sufficient. The appraisal of the railroads in the State of Minnesota cost that state over \$60,000. In South Dakota, the task is not so difficult because we have no large cities like Minneapolis, St. Paul and Duluth with great terminals and difficult real estate problems. But it will take a much larger sum than has already been appropriated. The platform upon which most of you were elected heartily endorsed the appropriation made for this purpose in 1907 and declared in favor of making a sufficient appropriation to enable the Board to fully complete the work thus begun-another platform pledge which must be kept.

WAREHOUSE LICENSES AND INSPECTION

The Board of Railroad Commissioners recommends certain legislation in connection with this part of its report, which I deem it my duty to emphasize as important. It calls attention to the fact that the present warehouse license fee is entirely too small, and yields almost no revenue above the expense of collecting it; that it ought to be increased sufficiently to bear the expense of a thorough system of warehouse and scale inspection. The Board recommends that the fees be based on the capacity of elevators licensed, as follows

For each elevator or warehouse with a capacity of 10,000 bushels or under, a license fee of \$3.00; 10,000 to 15,00.) bushels, a fee of \$5.00; 15,000 to 20,000 bushels, \$7.00; 20,00.) bushels or over, \$10.00.

It also recommends that Section 6 of Chapter 212 Laws of 1907, known as the "Connecting track law," be amended so as to eliminate that portion of it which reads as follows

"Nothing herein contained shall be construed as requiring any railroad company to send its cars over the line of railroad of another company when its own line of railroad runs to and reaches the point of destination or the point of connection with another line of railroad on which point of destination is located, or to use its track or terminal facilities at terminal points, for the handling of cars or traffic of another or competing company,"

because Section one of the Act provides that no common carrier shall be required to furnish another common carrier its tracks, equipment or terminal facilities without reasonable compensation, which is a sufficient protection.

The Commission also recommends that the Act be further amended by adding thereto the provisions of the Minnesota law from which it was taken, providing that car load lots shall be transferred without unloading from the cars, unless the unloading and re-loading be done without charge, under contract arrangements by the connecting carriers, or under rules prescribed by the Board, and providing further that less than car load lots shall be transferred at cost and the charges included in the joint rate.

It further recommends that a statute be passed to abolish unjust discriminations by common carriers in granting and renting warehouse and elevator sites, requiring a written report of each carrier to be filed with the Board showing the name and location of each elevator on its right of way, and the amount of rental paid for each location.

The purpose of the proposed statute is to enable the Board to discover whether or not there is unjust discrimination between what is commonly known as "line" elevator companies and farmer elevator companies.

These recommendations are in every way commendable and are thus brought to your attention for serious consideration.

STATE SUPERVISION OF PUBLIC UTILITIES

Complaints are made that the charges of the express, telegraph and telephone companies are too high. A telephone Commission was created two years ago, composed of the State Treasurer, State Auditor and a Telephone Commissioner appointed by the Governor, who draws a salary of \$1,200 a year. It was given general supervision and control of all the telephone lines and exchanges in the state, with power to hear and determine complaints, require reports, make schedules of maximum rates, compel connections and prevent unjust discriminations. The Legislature, however, made no appropriation whatever for the expenses of the Commission and it has not been able to accomplish much for the want of funds. Under its provisions, I appointed Hon. William Ege of Centerville as Commissioner. He has done all that he could do without funds. Complaints have been heard and adjusted from time to time and he has attended each meeting of the Board of Assessment and Equalization and given to that Board much valuable assistance and information in connection with the assessment of the property of telephone companies. Public utilities in the cities are left to the control of city councils and city commissioners.

The Board of Railway Commissioners recommends that a law be enacted placing express companies and electric railways under the supervision of that Board and that it also have supervision and authority in matters pertaining to the hanging of wires of

telephone, telegraph, electric light and other wires over railroad tracks. Undoubtedly, all of these matters should come under some effective form of supervision. I suggest that the Telephone Commissioner be required to act in all matters relating to telephone companies with the Board of Railway Commissioners, instead of with the Auditor and Treasurer of the state and that the general supervisory powers given to the Telephone Commission by the law of 1907 be given to the members of the Board of Railroad Commissioners, said Board to act upon such matters in connection with the Telephone Commissioner, who shall be under their direction; and that sufficient appropriation be made to enable him to properly perform the duties assigned to him. Also that the supervision of the Board of Railroad Commissioners be extended to express and telegraph companies, and such electric transportation companies as may hereafter be organized.

In other words, that the Board of Railroad Commissioners be given the powers of a Public Service Commission, adopting such provisions from the New York Public Utilities Act of 1907 as are adapted to the conditions of our state. Already electric lines of railroad are being projected and legislation must keep step with the progress of the time.

The Board of Railroad Commissioners objects to the requirement of the anti-pass law of 1907 requiring a publication in its report of passes, franks and reduced rate tickets to employes and members of their families, because of the labor and expense necessary in the preparation and publication of the same and expresses the opinion that the purposes of the law will be effectively served if common carriers shall be required under oath to include only in the list furnished and published all franks, passes and reduced rate tickets issued to persons other than employes and members of their families. It also recommends a law requiring railway companies to report promptly to the Commission, and in detail, all accidents occurring on railroads in this state which result in loss of life or injury to persons, in order that an immediate and thorough investigation may be made for the purpose of ascertaining the cause and placing the liability where it belongs. Both recommendations are respectfully recommended to you.

Drinking and gambling upon railway passenger trains has become a nuisance.

It is disgusting to be compelled to sit in a smoker, where one-third of the persons traveling therein are intoxicated and where beer and whiskey bottles are being passed back and forth, or are placed in rows in the windows, or found rolling about the car floor, accompanied by the loud, profane and filthy talk of the drunken rowdy. Neither is it the place for men to openly violate the laws of the state in regard to gambling.

During the past year, my attention has repeatedly been called to the matter by trainmen and by the traveling public. Not long since, on one of the Northwestern passenger trains, a drunken man hurled a beer bottle through the glass of a car window, and instances equally offensive are of frequent occurrence. I am glad to note that the Board of Railroad Commissioners urges the enactment of a law which will, so far as possible, prevent drunkenness and disorderly conduct on railway trains in this state. A number of states have effective statutes absolutely prohibiting gambling and the public drinking of intoxicating liquors upon passenger trains. I join heartily in the recommendation of the Board that an effective law be enacted to correct this evil.

STATE AND COUNTY DEPOSITARY LAW

Both of the great political parties in this state have declared in favor of a comprehensive state and county depositary law, which shall yield a revenue to the state and county.

The retiring state treasurer in his report recommends such a law and it will be one of the important duties you will have to perform. It should be so framed as to bring to the state, as well as to the counties, a return of interest for the use of the public funds and it should, so far as it can safely be done, relieve the state treasurer of the enormous responsibility and risk, which, as the law now stands, he must assume to the extent of half a million dollars. His liability is that of an absolute insurer and his salary is only \$1800 per year. The depositary law should be so drawn as to deal justly with the treasurer by placing a large part of this tremendous responsibility elsewhere, or by providing, in some manner, for more adequate compensation.

This subject is one which you are charged to put into the form of law by the verdict of the people and demands your best effort.

PENAL AND CHARITABLE INSTITUTIONS

I commend to your consideration the report of the Board of Charities and Corrections for the period ending June 30th, 1908, accompanied by the reports of the Superintendents of the Hospital for the Insane at Yankton, Hospital for Persons of Feeble Mind at Redfield, School for Deaf Mutes at Sioux Falls, School for the Blind at Gary, Training School at Plankinton, and Warden of the Penitentiary at Sioux Falls. In keeping with the declared purpose set forth in my inaugural address two years ago, I have absolutely refrained from partisan political interference with the management of these institutions. The members of the Board who were in charge two years ago, are still in control. Under the provisions of an act passed by the legislature of 1907, the Board elected a Secretary. The only changes made in the management of the institutions were occasioned by the resignation of Mary E. Wood, Superintendent of the School for the Blind at Gary. To fill the resulting vacancy, Mrs. Dora Donald-Hulbert, Superintendent of the School for Deaf Mutes was transferred to the institution at Gary, and to fill the vacancy at the School for Deaf Mutes, James D. McLaughlin of Watertown was appointed Superintendent. He has been in charge since July, 1907.

The Board reports that the work, upon the whole, done in all these institutions has been satisfactory and that improvement is manifest in each. Not one word of complaint or scandal has come to me in regard to the conduct of any of them.

In my inaugural address to the Legislature two years ago I said

"There is a feeling of uncertainty and insecurity among many who are connected with these institutions, which grows out of a fear that, regardless of merit and faithful service, their tenure of position is in constant danger from political intrigue and partisan politics; and that merit and faithfulness must yield to favoritism and the political 'pull'. There should be no ground for con-

-cern on this account. The time has come when it should be made clear and emphatic that the fixed and permanent policy of the state is to place the management of these institutions entirely above all questions of political expediency and favoritism. A rule of civil service should be applied to the administration of the public institutions of the state. They are maintained by taxation upon all the people and their patrons and beneficiaries come from all political parties. The purpose of the state to deal with them along non-partisan lines should be declared so emphatically that no faithful and efficient president, superintendent, professor, or employee need have any fear of losing his place through intrigue, favoritism, factionalism, or changing political fortunes.

He should be made to feel that he can rest implicitly upon the assurance that the only test of his right to continue in the service of the state is his faithful and efficient performance of duty and his worthiness."

In May, 1907, upon the recommendation of the worthy president of Yankton College, who has taken much interest in the matter, I called a State Conference of Charities and Corrections to consider the highest public welfare in the non-partisan management of these institutions and in general humanitarian work in the state. A permanent organization was perfected, which cooperates with the national organization; improved methods along comprehensive and enlightened lines is thus promoted. In keeping with this advanced sentiment and the policy above declared, the Board of Charities in its report recommends the enactment of a law fixing terms of office of a considerable number of years in length,-if not during good behavior,-for the officers and employes of each institution, and regulating their salaries with a view to securing and retaining the services of the most competent persons. Such a law is, in the opinion of the Board, necessary to remove the institutions from the pernicious influence of party and factional politics, and would bring to their administration the most effective application of the principle that competency and faithfulness alone should control the tenure of office. I heartily join in this

recommendation and urge upon you the enactment of such a law.

The management by the State Board of Charities and Corrections has been wise and efficient, as well as economical. Over \$60,000 unused balances in the appropriations have reverted to the general fund. The shirt factory at the State Penitentiary has yielded to the state a net profit of \$43,650 and the new twine plant is nearly ready to begin operations. In this connection, your attention is called to the declaration in the state platform of the dominant political party, which reads

"We declare ourselves in favor of a prison law which will give the wife and children of those dependent upon the labor of the prisoner, part of his earnings while incarcerated."

This is a matter well deserving your thought and attention. During my brief term of service, I have received several pathetic letters from the wives and little children of prisoners appealing to me for the pardon of the husband and father because those dependent upon him for support were without clothing or food.

I understand that, at the present time, a prisoner is allowed to earn a small compensation for what he may choose to do after he has performed the daily task allotted to him. The sum, however, is too small to be of much inducement.

A recently discharged prisoner of unusual intelligence wrote me a letter the other day in regard to this matter, in which he said

"Much has been made of the generosity of the management in allowing the prisoners to earn money. The unfairness of the conditions governing the earning of money is almost unbelievable. For instance, if I wish to earn 25 cents, I must first earn about 52 cents for the state, and then the next 52 cents, the state gets 27 cents and I get 25. The first 52 cents being my task, which is increased by more than one-half if I wish to earn some for myself. Should I fail to earn the first 52 cents, I am punished. And should I be adept and finish my task by 3 P. M., I am not permitted to quit working, but must continue to work until quitting time, which amounts to this: If I fail to do a prescribed amount of work, I am punished, and having done the prescribed amount of work, I am punished if I refuse to do more. This method of treating men has not the slightest semblance to the 'square deal', and its continuance can lead only to ill feeling that will ultimately bring on a mutiny by the inmates."

I quote this for what it is worth, coming as it does, from an

intelligent discharged prisoner. It suggests the idea that men who have enabled the state by their labor to receive net profits amounting to \$43,650, ought to have enough of it allowed to their wives and little children to keep them from the poor house. There is much that is wrong in our treatment of men convicted of crime. The habitual criminal, who, by heredity and instinct, is a murderer or sneak thief, ought to be permanently restrained of his liberty. If I had my way about it, these professional burglars who go about the state cracking bank safes and robbing post offices, when once convicted, would be restrained for life. Our penal statute should be so amended as to make the finding in one's possession of a set of burglar's tools with no apparently lawful purpose, as much a felony as the act of committing a burglary and make the act punishable by the same penalty. There is another class of offenders, however, who have been convicted of violating the law, and who, for the good of society, must be punished for it, but who, nevertheless, do not in any sense belong to the criminal class. Such as these, should receive entirely different treatment.

To throw them into a prison in common with the sneak thief, the professional burglar and the cold blooded deliberate murderer, and thereby blacken them in name and character forever, is to do an awful wrong. We are doing this every day. Note carefully the three recommendations following which are made by the Board of Charities and Corrections

1. "A law should be enacted providing for at least one state agent to act as a parole officer for the penitentiary and training school, and to conduct for at least a part of the year, a night school at the penitentiary. Several of the younger convicts are now trying in the loneliness of their cells to master text books used only in the higher institutions of learning. As things are now, we can furnish the text books but can extend them no other aid. This state can afford to maintain at least one officer whose duty it shall be to help the erring find the ladder of opportunity to a higher life.

2. Young men convicted for the first time should not be sentenced to the penitentiary for three, four, or six months. It is almost a crime to make them carry such a stigma through life. A reformatory should be established to which such offenders could be sentenced. It could be made a department of the penitentiary for many years to come, and in that way, would entail no additional cost upon the state, and would add but little to the duties of the officers and employes of the penitentiary.

3. The principle of indeterminate sentence should be embodied in the penal laws of our state. All the leading states of the Union have adopted this form of sentence, -leaving the term for which a convict shall be kept in prison dependent upon his conduct, within the limits of the minimum and maximum term for which he may be sentenced for the offense committed. Wherever this plan of dealing with criminals has been tried, it has given satisfaction. It is no longer a matter of experiment and should be everywhere adopted."

I cannot place too much emphasis upon these recommendations of the Board of Charities and Corrections. They touch the vital places in the treatment of prisoners. A few days ago, I went down to see the new twine plant at our penitentiary. When the time came for me to leave, the warden's carriage was brought and the driver took Mr. Parmley and me over to the School for Deaf Mutes, where Mr. Parmley left him to wait until I had visited that institution, with instructions to then take me to the Cataract Hotel. The driver waited an hour for me and then took *me* to the hotel. As I was leaving the carriage, he told me that he was a "trusty" and was serving a fifteen year sentence for manslaughter; that he had already served more than seven years of his sentence, and that under no circumstances could he be tempted to violate the confidence of the prison authorities by attempting to escape. I found that I already knew something of the man's history.

Under great provocation and while in high temper, he killed another man, and yet he is far from being an habitual criminal. He has both pride and principle and with the kindly supervision of a parole officer could be restored to useful citizenship. As I left him, I could not but regret that it was not within my power to grant him a parole. Maude Belington Booth, with her sweet face and womanly heart, has helped many an ex-convict of this kind to find work and friends and surrounding influences that have re-established him as a good and trustworthy citizen. Judge Ben Lindsay has steered many an erring boy over the hard places, and by putting him upon honor, has saved him from a career of crime. A little kindness just at the right time may often be the turning point in a man's life. The margin is sometimes a very narrow one between suicide, -or some other fatal mis-step, -and a long life of honor and usefulness.

Tragedies in life are things that make it so fascinating, -so

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mysterious. None of us are so perfect that we cannot recall times of temptation and folly. A large number of young convicts should be in a reformatory and not in a felon's cell. Society is sometimes the real criminal, and not its victim. Do not misunderstand me. Law and order must be upheld and crime sternly punished, but great care and discrimination and knowledge of temperament and disposition must be applied in the treatment of the convict.

The Iowa law enacted in 1907, provides that whenever any person over sixteen years of age is convicted of a felony, except treason or murder, the court imposing a sentence of confinement in the penitentiary shall not fix the limit or duration of the same, but the term of such imprisonment shall not exceed the maximum term provided by law for the crime of which the prisoner was convicted, and he may be thereafter released on parole by a board of parole and subsequently pardoned, -if his conduct justifies it in the opinion of the board, -which makes the recommendation for pardon to the governor ; the state in the meantime keeping him under the supervising care of a parole agent.

Some such provision as this should be incorporated into our law.

STATE BOARD OF REGENTS

As one reads the report of the Board of Regents and the accompanying reports of the earnest men at the head of the several educational institutions committed to their care, and learns of the crowded conditions arising from the ever increasing numbers of the attending students; and of the needs for better salaries and more buildings; and in the same connection calls to mind the constitutional limitation upon the state tax levies, which makes it impossible to grant all that is so much needed, a feeling of pungent regret arises that more cannot be done. But as I have already said, we must be patient because the aid can be given only in small installments. It will all come out right in time.

The fine new law building at Vermillion has just been completed. The new building at Aberdeen was dedicated on the 18th of December. The new dormitory at Brookings is now doing service. The new building at Spearfish is not quite finished but will be ready for occupancy soon, and the new improvements at Madison and the School of Mines have been completed.

The Board of Regents has given to the state the most unselfish and devoted service that men of the highest character and fitness can bestow. It became my duty to appoint three members of the Board to fill vacancies caused by the expiration of terms. I appointed Hon. E. C. Erickson of Elk Point, Mr. A. Norby of Sisseton and Mr. Samuel Forest of Britton. After serving for several months Mr. Forest resigned and was succeeded by Mr. Albert Anderson of Sturgis. Dr. F. S. Spafford of Flandreau and Hon. A. W. Burt of Huron, whose terms expire on March 1st, 1909, were appointed by one of my predecessors and both remained on the Board during the term of the outgoing administration. With the responsible and constantly expanding duties of supervising three Normal Schools, a State University, an Agricultural College and a School of Mines upon their hands, this Board has also been charged with the burden of looking after the erection of five new buildings and extensive improvements upon other buildings, together with the location of new experimental stations under the Act passed by the last legislature. For the painstaking care and devotion with which they have performed this vast amount of work they deserve the gratitude of the people of the state. In the policy pursued by them, no consideration of political partisanship or factionalism has been permitted to enter. No changes have been made during the past two years in the presidency of any of the institutions, except at the Springfield Normal, where Professor G. G. Wenzlaff succeeded President Frazee on the first day of last July. The Board of Regents has not endorsed all the demands of the several heads of the institutions for special appropriations for new buildings. The principal sums asked by the Board are as follows

A new central heating plant for the buildings of the University at Vermillion made large enough so that the part not now needed can be partitioned off and made to furnish temporary quarters for the machinery used in the basement of the Science Hall for the operation of the engineering and mechanical laboratories, from which place this machinery must be removed because its operation in the basement, where it now is, endangers the building. For this purpose the Board urges an appropriation of \$30,000.

For a New Science Hall at Madison, **\$25,000**; Repair of Heating Plant, **\$3,000**.

For a Dormitory Annex at Aberdeen, **\$35,000**.

For a new roof on main building and replastering at Spearfish, **\$3,500**, and for an Annex to Dormitory, **\$25,000**.

To complete Metallurgical Laboratory at the School of Mines, **\$5,000**.

Enlargement of Creamery, enlargement of green house, and erection of new dairy barn at Brookings, **\$20,000**.

Total, **\$121,500**.

These recommendations are made in undoubted good faith. At the beginning of this message, I presented to you very fully the financial situation and it is for you to say what shall be done. The salaries paid to the members of the faculties of these institutions, like the salaries paid to the state officers, are too small. Everywhere there is a demand for better pay. It is difficult to be just, and at the same time, keep within the income of the state. It will not be so difficult after the extra expense involved in finishing and furnishing the capitol is out of the way.

In the meantime, -go slow. Keep down the appropriations.

It appears from the report of the Board of Regents that Mr. Carnegie has offered to donate **\$40,000** for the erection of a library building for the use of the University upon its grounds at Vermillion, conditioned upon the State contributing annually \$6,500 for its maintenance.

The Board recommends that the Legislature give the necessary authority to accept the offer. Also that the Legislature and Governor endorse the action of the Board in applying to the Carnegie Foundation for participation in that fund so that teachers in the University may be eligible to a retiring pension under the terms of the Foundation.

I concur in both these recommendations.

The Board reports that the general prosperity which the state has enjoyed during recent years has had its logical result in a marked increase in the state educational institutions, and that they are all crowded with students.

The University has thy largest attendance ever enjoyed by

that institution and is coming into its own. Efficiency and thoroughness will bring it up to the high standard necessary to induce the students of South Dakota to be satisfied with its diplomas, instead of going to colleges and universities outside the state. Salaries should be high enough to command the best talent obtainable in its teaching force.

The erection of buildings simply, will not, of course, make a college. The *faculty*, after all, is, and must be, the vitalizing power absolutely necessary to the establishing of a really great university. There is a strong sentiment in favor of getting back of the University and making it the predominating educational force in the state.

The College of Agriculture and Mechanic Arts is making fine progress. A special department has been established to meet the needs of the young men and women, who, having completed the eighth grade in the public schools, are unable to enter any of the higher courses because obliged to work on the farm. For this class of students, a special course of instruction is planned, extending only through the winters, the term beginning in November and closing in April. The regular course in this department consists of three of these terms. The aim of this department is to prepare young people for life on the farm and in the farm home.

The work of the Experiment Station is carried on by a well equipped corps of scientists. Under the Department of Agronomy, the sub-station at Highmore is conducting a thorough and methodical system of experiments in crop-rotation and the testing of forage crops. Under the act of 1907, new experimental stations have been located at Eureka, McPherson county, and at Cottonwood, Stanley county, and another will be located in the new country in Butte or Meade county.

The Superintendent of Farmers' Institutes conducted seventy-two successful meetings in 1906-7 and ninety-six in 1907-8. These institutes are now a permanent feature in the agricultural education of the state and it is your duty to provide the means for making them in every way successful.

Your attention is also directed to that part of the report of the Board of Regents relating to a provision in the common school

courses for instruction in the elementary principles involved in plant growth, soil ingredients, stock feeding and in the simpler rudiments of agricultural science which may be put to practical use in the cultivation of the farm.

STATE GEOLOGICAL SURVEY. ARTESIAN WELLS

The report of the Board of Regents calls attention to the recommendation of the State Geological Survey concerning an investigation of the artesian water supply of the state.

I emphasized the importance of this subject two years ago.

The State Geologist speaking of it says: "hew, if any, problems are of so great importance to the masses of our people as the question of maintaining our deep water supply. The problem is a simple one. If we are drawing out of the Dakota sand-stone more water than is going into this stratum, then it is only a question of time when our artesian wells will cease to flow. The entire subject should be carefully investigated in order that we may not squander this wonderful natural resource of our state."

This is indeed a subject of very great importance. You are fortunate in having in your membership two citizens of the state who have more practical knowledge upon this subject, based upon actual experience, than any other two men in the entire west. I suggest that you draw fully upon them in the matter of conserving this great gift which nature has placed in the subterranean regions for use of the people. Now is the time to prevent unnecessary waste of this great resource.

CONSERVATION OF NATURAL RESOURCES

The reference of the State Geologist to the artesian basis leads me to a still larger subject, to-wit,-the conservation of all our natural resources, and the improvement of our waterways.

Acting upon the express request of the Hon. Gifford Pinochet, Chairman of the National Conservation Commission, last August, I named a standing State Commission on State Conservation, consisting of Hon. Robert J. Gamble, Chairman, Hon. E. W. Martin, Hon. O. C. Dokken, Hon. Samuel H. Lea and Hon. Doane Robinson, as Secretary. This Commission has made a preliminary report so replete with valuable information and suggestions that

its contents will be a revelation to most people. The suggestions made in this report are invaluable. It ought to be printed and widely disseminated. There is no appropriation for that purpose, however. Its publication and distribution by the Secretary of the State Fair Board

and Ex-Officio Commissioner of Immigration would give to the world information concerning our resources never published in so striking a manner before.

I earnestly urge that an appropriation be made for the printing and distribution of this report.

In connection with what is said in this report about irrigation and artesian wells, I also commend to your careful attention the recommendations of State Engineer Lea, asking for specific legislation to conserve the artesian water supply and recommending the enactment as a state law of the Carey Land Act, relating to the reclamation of arid lands, passed by Congress in 1894.

I also call your attention to what Professor Ellwood C. Perisho, the State Geologist, says in his report to the President of the State University and to the Board of Regents, concerning the completion of the work of making a geologic survey of the lignite coal beds west of the Missouri River and of the "Bad Lands." I earnestly recommend that these investigations be supported by adequate appropriations.

STATE FAIR

The Legislature of 1907 revised the law creating a Board of Agriculture, with a view to efficiently promote the holding of a successful Annual State Fair. It provided for a complete reorganization of the Board and for a Secretary to be appointed by the Governor, who, in addition to his duties as such Secretary, is Ex-Officio Commissioner of Immigration of the State; it provided that he should receive a salary of fifteen hundred dollars per year and necessary actual traveling expenses for his services in both capacities. It authorizes Boards of County Commissioners to expend each year not to exceed two hundred dollars for collecting exhibits for the County and State Fairs. It requires the Board to keep a record of all sums received for admission, concessions and privileges, and to pay out no moneys except upon orders authorized by the Board and drawn by the Secretary upon the

Treasurer, who is tinder bond. Any surplus, after the payment of reasonable and necessary bills, must be paid over to the State Treasurer. The Legislature of 1907 also appropriated **\$3,000** for 1907 and **\$3,000** for 1908, for payment of premiums, and **\$35,000** for the erection of buildings for the exhibition of cattle, horses, sheep, swine, poultry and dairy products.

The Board has presented a most interesting annual report for the last year, to which I invite your most careful attention.

Since the reorganization of the Board, and the erection of new buildings, the success of the State Fair has been phenomenal. The work and responsibility upon the members are heavy and require a very considerable amount of time. They are allowed only \$3.00 per day each for the time given by them not exceeding thirty days in any one year, and their actual necessary traveling expenses.

The State Fair is now one of the permanent and substantial institutions of the state. No more effective stimulus to better methods of farming and stock raising can be found. No more convincing and attractive advertising of the substantial resources of the state can be devised. No other will bring as good a return for the money spent.

The Board of Agriculture in its report, earnestly appeals for support, and calls attention to the fact that its members are composed of men from different points in the state, of known business and financial standing, who have large business interests of their own, and that the duties placed upon them as members of the Board impose a tremendous burden for the very small compensation they receive. That when the gates are opened the week of the Fair, certain things must combine to make it a success, the weather,-proper advertising beforehand, and,-most important of all,-proper care and management. That in providing for all these things, when the gates are opened, with many visitors and exhibitors from abroad, the Board must face each year an absolute contract expense of from **\$20,000** to **\$25,000**. That one week of poor weather and no attendance will make a failure of the undertaking for the year. That, for this reason, the State should stand squarely behind the project and protect the members of the Board in every proper and legitimate way. That during the last two

ears, by the active effort of every member, the Board has succeeded in placing the South Dakota State Fair in the position of one of the great Fairs of the Country, equal to any held in the neighboring states, and recognized as an annual event, which our people will plan to attend.

In behalf of their successors, the members of the Board unselfishly ask that the men who give their time to make the Fair a success shall know, that in time of adverse conditions, like bad weather, the state shall stand squarely behind the Board. That with this assurance, men of responsibility can be induced to serve.

That the state now has grounds of its own, covered by splendid buildings with approximately \$80,000 worth of property, and that it should, therefore, appropriate each year not less than \$5,000, with which to pay expenses and premiums, and an additional **\$5,000** contingent, to be used, if necessary, to pay additional expenses in case the weather, or some unusual and unforeseen circumstance arise to cause a failure in the income so that it will not pay out. That with the new buildings now upon the grounds, it has become necessary to employ a custodian with teams to care for and preserve the buildings and grounds, cultivate the shrubbery keep down the weeds, mow the grass, and look after the property generally, for which, a sum not exceeding **\$1,500** per year should be appropriated. That an appropriation for the salary of the Secretary should be made as heretofore. That \$1,000 should be appropriated per year to keep the buildings insured, and **\$500** to enable the Board to acquire by condemnation the title to nine lots which are scattered throughout the eastern portion of the grounds.

The Board further recommends that the office of Secretary of the State Fair Board be separated from the duties of Commissioner of Immigration and that an additional sum of **\$2,000** per year be appropriated for office rent, stenographer and clerk hire.

These requests are all reasonable and necessary and their compliance will insure the continuance of the splendid service to the state which this great enterprise gives.

The Board reports that in 1907 and 08 it policed the grounds by placing the same under the control of the Adjutant General

with a detail of 50 picket men from the State Militia and that their efficient service is greatly to the credit of the Military Department under Adjutant General Engle by. That the Fourth Infantry Band was made the Official Band of the Fair and also rendered splendid service.

It recommends that \$1,500 a year be appropriated to defray the expenses of the Military Department in placing a company on the grounds each day of the Fair to properly patrol and police it and to protect visitors.

It also appears, that in order to complete the permanent improvements authorized by the last legislature, in order to make them answer the absolute demands of the Fair of 1908, the members of the Board found it necessary to borrow \$4,000 upon the notes of the members, for the payment of which, and to provide for a small working surplus, it asks for an appropriation of \$5,000. I heartily endorse the recommendation.

The Board also asks for a sufficient special appropriations to erect a Dairy and Apiary Building, a new Women's Building, an addition and improvement to the grand stand, a large Manufacturer's Building for exhibiting farm machinery and other manufactures, a Mining and Fishery Building, with turnstiles, and for needed improvements upon the ground.

I urge that you investigate the need for these buildings carefully, and so far as it is possible, that you grant the aid asked for by these men, who have proven by their devoted and unselfish work that they are entitled to full confidence.

COMMISSIONER OF IMMIGRATION

Under the provisions of Chapter 76, Session Laws of 1907, making the Secretary of the State Board of Agriculture, Ex-Officio Commissioner of Immigration, and requiring the Governor to make the appointment, I appointed Mr. Clarence N. McIlvaine of Huron to the position. As Secretary of the Board of Agriculture, he has rendered every possible service and the capable and efficient performance of his duties in that regard have taken no small part of his time.

As Commissioner of Immigration, he opened an office and a bureau for the conduct of correspondence, the collection and

distribution of printed matter and the advertising of the resources of the state. With the very small appropriation made, he was, of course, unable to give as wide publicity to the state's resources as might be done with a larger sum. I call your attention to his report

Many thousands of a pamphlet containing a large amount of information concerning the state's resources and many thousands of a printed illustrative map were prepared by him and printed and distributed through the mails. He is entitled to credit for accomplishing so much in addition to the onerous duties of his office as Secretary of the State Board of Agriculture, when the very small appropriation provided is taken into consideration. That appropriation was made in Section 20 of Chapter 76 of the Session Laws of 1907, to which I desire to call your particular attention. It was approved March 9th, 1907, and appropriated \$2,500 for the remainder of the year ending June 30th, 1907, \$5,000 for the year ending June 30th, 1908, and for the *remainder of the year* 1908, \$2,500.

No appropriation is made after January 1st, 1909. The office is, therefore, without a dollar for its maintenance at this time. There seems to be a demand for the maintenance of an Immigration Bureau, and until some other and better plan is provided for, the arrangement made by the law of 1907, should be supported by an appropriation. The term for which Mr. McIlvaine was appointed does not expire until April 1st, 1909.

I recommend that a pro rata sum be appropriated by an emergency law enacted at once to maintain the office until that time, and that, in the meantime, this legislature determine what, if any, action shall be taken to establish by law a separate department for this work.

TRESPASS OF ANIMALS. REQUIRING LIVESTOCK TO BE RESTRAINED IN PART OF STATE WEST OF MISSOURI RIVER

The settlers and homesteaders who have in recent years moved into the newer sections of the State lying west of the Missouri River, and who have begun the cultivation and tillage of the land, are bitterly opposed to sections *io* and *ii* of Chapter 244 of the Session Laws of 1907, which provide that the law restraining

owners of livestock from allowing the same to run at large, shall not be operative in that portion of the state lying west of the Missouri River, except in such counties as may adopt the rule by a majority vote at an election called for such purpose by the County Commissioners upon a petition of a majority of the electors of such county. They insist that the law should be of general application all over the state without the necessity of expense and delay in submitting it to a vote in any county. They will earnestly ask that the law be amended by eliminating Sections io and ti.

These new settlers are entitled to the most considerate attention at your hands. They have many difficulties to overcome; many hardships to endure; many risks to incur. Every reasonable effort to help them by just and fair legislation should be made.

PUBLIC EXAMINER. INSURANCE OF BANK DEPOSITS

Hon.- John L. Jones, the Public Examiner, reports that the banks of the state, generally speaking, are in a sound and satisfactory condition.

During the biennial period ending June 30th, 1908, 122 state and 3 private banks were organized, six liquidated voluntarily and paid their depositors in full and two were placed in the hands of receivers.

His report shows the condition of 393 state banks, 25 private banks, and 1 trust company, which were doing business June 2nd, 1908. There was a net gain of 106 in the number during the period. He says

"The fact that these banks were all able to pass through the currency stringency period last fall without embarrassment, or special attention from this department, speaks well, not only for the banks, but for the state and local business conditions."

The Public Examiner and his two deputies are expected to examine this large and increasing number of banks often enough to make his supervision effective; to examine the finances of each of fifty-three counties, and thirteen state institutions, and to check up the accounts of the state officers and oil inspectors when requested.

Mr. Jones says

"To accomplish this with the present force is, of course, a physical impossibility and the department has, therefore, endeavored to give attention to such duties as seemed most to demand it."

During the period covered by the report, sixty-four county examinations were made, two of which alone occupied one deputy five weeks ; six state institutions were examined ; also the office of State Auditor; also nine hundred and sixty-two bank examinations ; there should have been sixteen hundred, but with the force provided, that was simply a physical impossibility. This is one of the most vitally important branches of the public service, but in order to be what is demanded, it must be supplied with a sufficient force to keep up the work.

The Examiner recommends a very thorough revision of the state banking law and I call your attention to the very valuable recommendations made on pages 20 to 23 of his report.

I heartily approve of the recommendations that the banks be prohibited from loaning money to an officer or director without good collateral, or a responsible endorser; that no bank be allowed to organize with a capital of less than \$10,000; that a director shall be the owner of at least five un pledged shares of stock in the bank of which he is a director; that the department of Public Examiner be given authority to designate and approve all reserve banks ; to disapprove of proposed bank charters; to take direct charge of and wind up the affairs of insolvent banks ; that the law require all banks which act as reserve banks to keep on hand at least 25 per cent. of their total deposits in lawful money, or to deposit the same in banks approved by the Public Examiner as reserve banks, and that cash items shall not be considered as a part of the reserve; that banks be prohibited from issuing their certificates of deposit for borrowed money ; that they be required to issue their bills payable in all cases when, money is borrowed and to show such amounts in all published statements under "bills payable" ; that banks be prohibited from borrowing, habitually, for the purpose of re-loaning and that authority be given to the Public Examiner to require such bank to pay off such borrowed loan ; that the amount of assets which a bank may pledge as collateral to its loans shall not exceed 50 per cent in excess of the amount of any such loan; that a preference be given to savings depositors; that state banks be required to pay fees for inspections.

In view of the fact that the two leading political parties represented by the membership of this legislature are committed to

the principle of, in some form, % affording greater protection to the depositors in both state and national banks, -(and a more rigid and complete supervision conducing to that end)-I earnestly recommend these suggestions of the Public Examiner to your most careful thought and attention.

INSURANCE OF DEPOSITS

The platform of the dominant party on which the larger number of you gentlemen were elected, contains the following declaration

"Our national platform favors the establishment of a postal savings bank system for the convenience of the people and the encouragement of thrift.

The protection of depositors against loss by insolvent and mismanaged banks, and the protection of solvent and well managed banks against runs and panics, requires that postal savings bank laws be accompanied by efficient laws, state and national, providing for the insurance of depositors against loss. We favor the enactment of such laws."

It is undoubtedly true that a national law is soon to be enacted establishing postal savings banks. Deposits in these savings banks will be made upon time certificates only and there will be no open accounts. The deposits will not be kept, in the local banks, but will probably be sent to central reserves, and thus withdrawn from the state to the detriment of the local banks, both state and national.

The funds thus removed will, of course, be more inaccessible and less likely to be .used in facilitating local business than if the same were kept in the home banks. For this reason, as well as for many other good and obvious reasons, a carefully worked-out law for the protection and insurance of depositors is demanded by the times. The principle declared for in the resolution above quoted is not for an absolute state guaranty of bank deposits, but rather for a provision for the insurance of depositors against loss. It is for you carefully and conservatively to work out the details. The law recognizes the right of companies to incorporate for the purpose of insuring property holders against loss by fire, hail, tor-

nado, and burglary, and to insure persons against loss occasioned by accidentals injuries and by death. Certainly under a carefully drawn and properly safeguarded law, statutory provision may be made by which depositors in the banks chartered by the state may be indemnified against the loss of their money. Let us keep absolute faith with the people upon this proposition set forth in the political platform upon which the dominant party to which most of us belong, was successful in this state at the last general election.

Mr. Alexander H. Revel, one of Chicago's most prominent and successful business men,-and a republican,-in a pamphlet lie has issued favoring Deposit Insurance, tells, in illustration, of the distress which followed the failure of the Milwaukee Avenue Bank of Chicago about two years ago. He says

"A large community in a comparatively small district, was panic stricken. Many depositors were foreigners, workingmen, small tradesmen, and others, who suddenly found the savings of a life time taken from them. No matter whether anything could be realized on the assets in the future, or not, the fact which dazed them was that no one could get his money, that the bank deposits were not negotiable. The plans of thousands of men, women and children were disarranged, and they were plunged into distress. Frightened, despairing, some committed suicide, others went insane, others failed.

"And yet the worst of it is that such a pitiable wreck of human happiness could have been avoided, had there been some method of guaranteeing deposits, until the assets could have been realized upon; for in actual fact, the receiver paid 70 per cent to the depositors inside of five months after the bank was closed, without calling upon the further amounts to be collected from the stockholders under the law.

"If there had been a guaranty to depositors, I believe this bank would never have got into such a predicament; or, if it had, the matter would have created no more disturbance than a gentle breeze on a June day.

"Innocent depositors would have been able to negotiate their deposit books; the only loss to fall upon the insurance fund would have been the insignificant sum,-if any,-by which the total assets fell short of the deposits; and all that human misery would not have stained the record of our city."

Let me cite another instance in our own state. Only a little more than a year ago, one very cold winter night,-and Sunday night at that,-after midnight,-I was awakened by the repeated ringing of the telephone. Answering the call, I learned that it

was from a prominent banker in one of the largest towns of the state. He said he had just come from a midnight meeting attended by all the bankers and most prominent business men of his town ; that the situation was very serious; the clearing houses of Duluth, Minneapolis, St. Paul, Sioux City and Chicago had all, by resolution just passed, decided absolutely to ship no currency outside their respective limits ; that this would necessitate the suspension of cash payments by banks in South Dakota at a time when there was need of more than the usual amount for the purpose of moving the crops; that the result would be a panic, unless some effective means could be taken at once to avert the disaster; that he had been requested by the meeting to commune-cate with me and suggest that I issue a proclamation declaring the following day to be a legal holiday, so that the banks could have a legal justification for keeping their doors closed. I replied, that in my judgment, this course would greatly alarm the public and make the matter worse, but that I would consult with other bankers at once and give hem a definite answer in a few hours. I at once called up the bankers in my home town, and also succeeded in communicating by 'phone with leading bankers in three or four of the other larger towns of the state, and they confirmed my judgment that a proclamation would add to the danger. About four o'clock in the morning, I reported my more mature conclusion by telephone to the gentlemen who had first called me up. One of the other bankers in his town answered my call and expressed the gravest concern at my decision. He feared that on the next day all the branch or associated banks would insist on being supplied with currency and that a run would follow, but said, if that was my decision, they would take chances during Monday, and ef trouble came, they would renew the request that Tuesday be declared a legal holiday. By keeping their heads and taking their depositors into their confidence, and frankly asking their cooperation, the banks pulled through and averted a panic.

Payments to depositors of more than twenty-five dollars en any one day were refused for some time, but happily, nothing occurred to unduly excite the public and after a few weeks, conditions became normal again. This instance shows, however, that

the risk of a run upon our banks at a time when they were solvent and prosperous was imminent and disconcerting. Had there been in force a system of deposit insurance, the ground for apprehension would have been removed, because depositors, in that event, would not have been disturbed. A wise and conservative law by which the depositors may be insured, will not only protect depositors against loss in insolvent and mismanaged banks, but it will protect solvent and well managed banks against runs and panics.

The rate of insurance imposed upon the capital stock and sur' plus of a bank, fully sufficient to support an adequate insurance fund, will be so light that it will hardly be felt.

The proportion of the total losses in all the national banks in the United States, which became insolvent during a period of 43 years was only two and seventeen-one-hundredths per cent. of the average annual amount of deposits as shown by the report of the Comptroller of the Currency for 1907. The average annual loss was only one-twentieth of one per cent. of the average annual deposits.

During the 43 years from 1863 to 1907, the average annual losses to depositors in all the national banks in the United States was less than one-ninth of one per cent. of capital and surplus. That is to say:

An annual insurance rate of less than one-ninth of one per cent. of the capital and surplus "would have been sufficient to cover all losses from all the failed national banks throughout the entire period of the existence of the national banking system. The rule of averages will determine how much of a fund is necessary to be at hand for prompt payment of depositors in case of a failure. It does not answer the need to say that the depositor in time, -if he is patient, -will get back most of his money without insurance. As Mr. Revel says

"The crux of the matter lies in the stringency into which the depositor is plunged who has funds locked up in an insolvent bank on which he cannot realize anything at the moment of his greatest need.

"Utterly helpless, he is thrown into complete despair; he finds his family and his future jeopardized, his years of labor and economy discounted, -for his money, if not lost, is removed from his use for an indefinite period.

"For instance, a national bank with liabilities of \$11,000,000 failed in 1896; and it was still in the receiver's hands as late as in 1906. Say that it has paid or will pay back at least the average (80 per cent.) realized by depositors in insolvent banks; **dividends spread over ten years, give no real return for the original loss at a time when obligations had to be met to prevent failure.**

Uninsured funds in an insolvent bank do not give the depositor any aid as a credit. A safe insurance of deposits would make the amount of his deposit an available asset at once. There is no `parallel between the principle of bank deposit insurance and the guaranteeing of a crop to the farmer, as is sometimes contended. Banks are chartered by the government, state or national, and are permitted to hold themselves out to the public as solvent institutions. They use the word "National" or "State" in the name put before the public. They are permitted to accept money as quasi public companies regulated and supervised by the government or the state, and the government or state should give to the people from whom they are thus authorized to receive funds in trust, the protection of a system of bank deposit insurance.

INSURANCE COMMISSIONER

The report of the Commissioner of Insurance for the year ending June 30th 1908 shows that the total amounts received from all licensed companies during the year were the following : Fees, \$20,025.83, Taxes, \$66,446.95.

Foreign fire insurance companies during the year 1907 upon South Dakota business received in premiums \$1,130,552.74, and

paid in losses in our state \$398²⁸5.44.

During the same year, foreign life insurance companies received in premiums upon business in the state \$ 1,275,595.47 and paid in losses \$213,713.69.

The basis of the taxes paid, as fixed by our statute, is two and one-half per cent. on gross premiums. The constitutionality of this law was raised recently in a suit brought in the Second Judicial Circuit and the law was held by that Court to be invalid. I understand that an appeal is pending and if the decision of the lower Court should be affirmed, there will be no statute for the taxation of insurance companies. The proposal to amend the constitution in regard to revenue submitted by the Legislature of 1907, and de-

feated at the recent election, was designed to reach a case like this, so that the taxation of the income of a foreign corporation having no tangible assets within the state, but receiving each year very large sums of money upon South Dakota business, would have express constitutional sanction. But as I have said before in this message, the proposal was unfortunate in removing the constitutional limit.

Let another proposal with proper safeguards as to the limit be submitted by this legislature to the voters of the state at the next general election, and it will be ratified by an overwhelming vote, because the people of this state will not consent to the escape of the insurance companies from the burdens of taxation.

This is a matter demanding your most serious consideration. The Commissioner of Insurance suggests the enactment of a law making it clear what the attitude of this state is in relation to the practice of creating so called "advisory boards," for the purpose of inducement in soliciting life insurance. I believe this practice is vicious and wrong and ought to be prohibited by statute. I recommend that you investigate the matter with the view to putting an end to the practice.

INSPECTION OF MINES

The report of the Mine Inspector for the year ending November 1908, states that the laws of the state are generally complied with by managers of mines to guard against accidents; that protection to workmen below the surface, from danger by fire, could be made better; that, at present, in small mines, but one shaft is used and this is the only exit from the mine; that in the case of the burning of the shaft house or hoist, there is absolutely no protection to the men in the shaft. He suggests that mine owners or managers be required to drive a tunnel to tap the shaft at least 60 feet below the surface, or, in cases where this is not practical, that a second shaft be sunk at least one hundred feet from the working shaft, the two to be connected at each one hundred foot level or less, the safety shaft to be equipped with a ladder-way as the law now provides. He recommends that Section 2581 Revised Political Code 1903 be revised so as to require that cages equipped with safety appliances as therein provided shall

be used for hoisting and lowering men in all shafts over 200 feet in depth, and that in all shafts over 50 feet and not more than two hundred feet in depth, where cages are not used, the buckets shall be supplied with cross-heads, having not less than six foot guides and shoes, thus providing that the ordinary hoisting bucket shall not be used at a greater depth than fifty feet.

That wire screens be required around the cages when workmen are being lowered or hoisted from the mine, constructed so as to be readily removed while ore or other material is being handled. That a stringent law be enacted regarding the thawing of dynamite.

The Inspector reports that the mines of South Dakota during the past year produced gold and silver bullion of the value of \$7,459,850.00, an increase in production of \$250,000 over any previous year recorded. That several of the companies failed to report their output. That the production reported was as follows:

Gilt Edge-Maide Mining Company	\$ 88,900.00
Golden Reward	287,000.00
Homestake	6,000,000.00
Imperial Co	135,000.00
Lundberg Co.....	40,000.00
Minnesota Mines Co.....	46,000.00
Mogul	552,000.00
North Homestake	150,500.00
Portland	48,600.00
Standby	5,700.00
Wasp No.....	2 96,150.00
Placer Mining	10,000.00
Total	\$7,459,850.00

Also that the production of the Westinghouse Electric and Manufacturing Company in Mine Run Mica was \$85,000.00.

These mines give employment to 3,560 men. During the year, there were seven fatal accidents, and twenty serious, though not fatal, accidents.

This report is respectfully submitted to the legislature.

DEPARTMENT OF HISTORY-VITAL STATISTICS

The report of this department shows a very satisfactory growth in state production over last year, the estimated value of

our entire production this year, being \$185,434,430, as against \$160,232,000 last year, an increase of \$25,202,000. During the year, general good health has been enjoyed with no epidemics. There were 11,097 births and 4,129 deaths, among them, Col. C. W. Ainsworth, formerly Superintendent of the Reform School; Dr. C. M. Young, Dean of the College of Arts and Sciences at the State University; Newton Edmunds, second governor of Dakota Territory, and Howard G. Fuller, one of the judges of the Supreme Court.

Col. Wm. H. Parker of Deadwood, member of Congress died at his home on June 28.

The population of the state increased materially during the year. Laws passed by the legislature of 1907 in relation to divorce, Sunday observance, and prohibiting the shooting of quail, referred to the people at the November election, were approved. The condition of public morals in the state is exceptionally good.

Volume IV of Historical Collections, compiled by the State Historical Society, for the biennium ending June 30th, 1908, contains much that will prove itself to be of incalculable value as time passes. The Legislature of 1907 provided for a Legislative Reference Division in which material is collected relating to every topic which the legislature is likely to investigate or discuss, and which is classified and digested so as to be readily furnished for the use of legislative members upon call.

The Department has also revised for publication and, as authorized by the Legislature, is supervising the publication of the Constitutional Debates of 1885 and 1889. Volume one, embracing the debates of 1885, has been completed and Volume two, containing the debates of 1889, is almost ready for delivery.

The library and museum have grown materially. Particular attention has been given to the collection of research work relating to the Sioux Indian, the Arikara and the Mandan. Two contributions of great value have been made by Mr. Charles E. Deland of Pierre, upon the Aborigines of South Dakota. His first paper upon the Arikara was published in Volume IH. of South Dakota Historical Collections. His second contribution upon the subject of the Mandans appears in Volume IV. The painstaking and exhaustive research and study given to this subject by Mr. Deland, and his very substantial contributions to history, have

placed the State under the deepest obligation to him. For the very love of it, and without thought or hope of financial reward, he has given to the State a service involving great patience, untiring industry and immense loss of time from his ordinary routine work.

I am glad to express to Mr. Deland and the gratitude of the administration now retiring, for this splendid service. His work is a notable contribution to the historical literature of the Great Northwest.

SUPREME COURT

To fill the vacancy caused by the death of Hon. Howard G. Fuller, I appointed Hon. Charles S. Whiting, of De Smet, on November 16, 1908, to fill the unexpired term as judge of the Supreme Court. To accept this appointment, judge Whiting resigned his office as judge of the Ninth Judicial Circuit, and I appointed Alva E. Taylor, Esq., of the Huron Bar to fill the vacancy. Both appointees have qualified and are filling the positions to which they were appointed.

The business of the Supreme Court has accumulated to an extent that makes it difficult, if not impossible, for three judges to do the work required.

A large number of cases have been submitted and taken under advisement, which the judges have been unable to reach for final determination. Some of these cases have been pending and undetermined in the Supreme Court for several years. There is a well founded and apparently a reasonable demand that the Court should be relieved of the excessive burden imposed upon it by an increase in the number of its members to five judges.

I suggest that you give this matter thorough and careful investigation and consideration.

ADJUTANT GENERAL

I am glad to commend in high terms the South Dakota National Guard and to urge that you carefully read the entire report of the Adjutant General. I have changed my opinion about the State Militia. I have found, by personal observation, that it is not merely a play-soldier affair, which would be of no substantial service in time of war or riot, but it is a well organized, thoroughly drilled and disciplined part of the military organization of the National Government. Its officers are men of standing and character. Its private members belong to the best class of

young men in our state, being farmers, clerks, bankers, mechanics, and business men in the communities where the companies belong. At the annual encampments long and faithful days works are put in at drill and target practice. Everything is done in perfect order. There is absolutely nothing of rowdiness. It thrills one with pride and is an inspiration to see the hardy young fellows who belong to the flower of the manhood of the state, eager to acquire a knowledge of military tactics and to learn enough of the rough life of the soldier to equip them for the better defense of their country, should the time ever come when they are needed in its service.

Since the reorganization of the Army under the masterful administration of Elihu Root, as Secretary of War, the Government has given the most powerful aid to the militia of the states for the purpose of making it in fact an efficient part of the national military organization. Doing this has been a wise economy.

Adjutant General Englesby in his report says

"For every dollar it expends in the support of the militia, it, (the government) saves hundreds of dollars that would be required for the maintenance of a larger regular army. It costs the United

States to exceed \$1,300 per annum, per man, to maintain its regular army establishment, while, on an investment of less than \$40 per capita of enlisted strength, it secures the services of the organized militia, in keeping itself constantly prepared and subject to the call of the President. The efficiency and dependability of the latter as a fighting force, equal in most respects, with proper officers in charge,

to the forces of the regular army, has been repeatedly demonstrated throughout the wars of the past."

The South Dakota National Guard consists of one regiment of Infantry, composed of twelve companies, and the band. In addition, there is one separate company, making fourteen organizations in all, under the command of Col. J. H. Holmes of Aberdeen.

The state may well be proud of its militia. I cannot speak too highly of the men and their officers, from colonel to private. I earnestly request that you give full consideration to the suggestions and recommendations of the Adjutant General and that the organization be sustained by a sufficient appropriation.

SOLDIERS' HOME

The Commissioners of the Soldiers' Home in their biennial report for the period ending June 30th 1908, bring testimony, as follows:

"At no time since the Home has been established have the members been so well cared for and clothed as at the present time.

"All members seem to be contented and happy and no complaints are being filed against the management, and none by the management against the members. All are gentlemanly in their conduct, neat and clean in appearance. No profane or vulgar language is heard in and about the Home. Members are loyal and obedient. The home is neat and clean and in good sanitary condition."

Since two years ago, many needed improvements have been made. A new hospital has been erected and furnished with modern conveniences. A good supply of water has been secured, buildings have been painted, new floors laid. The Commissioners, as well as the Commandant-Colonel Dudley,-and the members, are surely to be congratulated upon this pleasant situation. For a year and a half now I have received no word of complaint concerning the management of the Soldiers' Home. Prior to that, complaints were constant. The report of the Commissioners and the report of the Commandant are submitted to you. No institution in the care of the state has stronger claims upon your patriotism and affections. No other class of men are entitled to higher consideration. You will, no doubt, carefully note all the suggestions and recommendations made by the efficient officer in charge and by the faithful members of the Board, and make every reasonable provision for the maintenance of this worthy institution.

SECRETARY OF STATE-CORPORATIONS

Under the efficient management of the outgoing Secretary, Hon. D. D. Wipf, the duties of the Secretary's office in' all of its details have been faithfully performed. The janitors and watchman in charge of the old state house, have carefully protected it from the danger of fire ; the public printing has been closely scrutinized, and the records of the office kept up to date with scrupulous care.

For the fiscal year ending June 30th 1907, the receipts of the office were \$34,666.44. For the fiscal year ending June 30th 1908, the receipts were \$26,709.71,-a falling off of \$7,956.73 a result of the money stringency of last year.

During the biennial period covered by the report, 1949 domestic corporations were incorporated ; 250 foreign corporations entered the state ; 303 resident agents for foreign corporations, and 661 resident agents for domestic corporations were appointed.

On pages 206 to 219 of this report, you will find a list of

383 corporations classed as "Domestic Corporations Carrying on Business Outside of the State and Their Resident Agents." By Section 7, of Chapter 104, Session Laws of 1907, Section 786 of the Revised Civil Code of 1903 was amended so as to read, as follows

"Any corporation created under the general incorporation laws of this state may provide in the articles of incorporation for having one or more business offices without this state at any place to be named in the articles of incorporation, and to hold any meetings of the stockholders or directors of the corporation at either of such offices so provided for, but every such corporation having a business office out of this state must have its main office for the transaction of business within this state to be also designated in such articles."

Section i of the same Chapter amended the old law by requiring that one only of the "directors or officers" of the corporation shall be a resident of this state.

While Chapter 104 referred to contains some good provisions, and I approved the law when it was passed, I am satisfied that the above two provisions are being abused. Corporations without a bona fide capital, and with practically all their officers, directors, share-holders, and principal offices outside the state, and only a nominal office within the state, and with not one single dollar of assets within the state, receive incorporation certificates and engage in fraudulent practices in other states.

It is not the good faith and honest corporation organized under this statute that is complained of, but bitter complaint is made of the fraudulent companies that take advantage of it. A change should be made in the statute which will insure greater security for the public and more conclusive evidence of responsibility, and good faith on the part of incorporators not residing within the state than is now given.

DAIRY AND FOOD COMMISSIONER

Certain sections in the law enacted by the legislature of 1907 in relation to the branding and sale of drugs and medicines were declared to be invalid for fatal omissions and ambiguities in the language used, leaving our Pure Food Law somewhat crude and incomplete.

The law should be amended so as to become effective. The purpose should be, not to favor or injure any class, but to protect the consuming public from fraud.

SCHOOL AND PUBLIC LAND

The report of the Commissioner of School and Public Lands shows that his department is in a prosperous condition. The lands sold during the past two years have brought much higher prices than ever before, and the rentals have greatly increased.

The large and constantly increasing Permanent Fund is all loaned on safe securities and the department has been unable to supply the demand for loans, but has been obliged at times, to hold up applications for months, and some times has been forced to refuse them entirely. Every acre of Capitol Building Lands situated east of the Missouri River has been sold and over 400,000 realized from these lands, with over 41,000 acres still unsold west of the River.

As a result of the exercises of thoroughness and diligence in the performance of his duties, the Commissioner in checking up the records of his office discovered that the state had not been fully indemnified for school lands lost to it in fractional townships, where the different surveys meet, and by the irregular shape of the Indian Reservations established before the surveys in the field took place, and by natural causes, and that the state is entitled to make selections of over 36,000 acres of public lands in satisfaction of this claim. Since his report was made, the Commissioner has filed his selections in the U. S.. Land Office at Chamberlain, of choice lands located in Tripp County, to cover losses to the state occasioned by the allotment of school lands to the Indians. Selections to cover the claim of the **36,000** acres of indemnity lands will be made out of choice lands opened in the Rosebud, Cheyenne and Standing Rock Indian Reservations.

The recommendations made by the Commissioner are respectfully submitted for your consideration.

UNIFORM LAW RELATING TO NEGOTIABLE INSTRUMENTS

The law merchant should be uniform throughout the length and breadth of the United States, because commerce knows no state lines. Thirty-six states have adopted a uniform negotiable instrument law,-a statute repeatedly endorsed by the American Bar Association, the bar associations of most of the states, and generally approved by the Courts. Conflict and uncertainty in the decisions and rules pertaining to negotiable instruments are injurious to both borrower and lender. A bill for an act bringing our law into uniformity with the law of the majority of the states will, I am told, be submitted to you.

ATTORNEY GENERAL-SALARY OF PUBLIC OFFICERS

The report of the Attorney General shows a faithful and conscientious performance of official duty. An annual meeting of the States Attorneys of the several counties with the head of this department and a concerted action for the enforcement of law through the hearty and mutual co-operation of all, has been inaugurated by him with success. There has been a noticeable improvement in the enforcement of the laws prohibiting gambling and regulating the sale of intoxicating liquors. Suits to enjoin unlawful combinations in restraint of trade have been instituted and the action brought by the railway companies to enjoin the enforcement of the two and one-half cent passenger fare law is being defended properly.

The salary of the Attorney General, who is one of the hardest worked officers in the state, has been fixed by the constitution at only \$1,000 per year.

An amendment proposing to increase this salary to \$1,800 per year, the amount paid all other elective state officers,-excepting the Governor and Supreme Court judges, who receive more, has been twice submitted to the voters, and in each case, has been rejected.

This is an instance in which the majority, for some reason, is both careless and unjust. The public service is harmed by the allowance of inadequate salaries.

When the new capitol building is completed, furnishing, as it will, adequate office room and equipment, every state officer will be required to live at the capitol. How can the people expect a good lawyer to break up his business at home, remove his family to Pierre, remain there two or four years, and then move back to his old home again for a salary of \$1,000 per year? Rents are high ; accommodations are limited; the cost of living is high.

A small salary under such circumstances is almost prohibitive. : It increases the temptation to secure by irregularity enough to make ends meet.

If state officers are to leave their homes and bring their families and household effects to Pierre and buy or rent houses during the brief tenure of their offices, more suitable houses at reasonable rentals, will have to be built at the capital, and the salaries will have to be sufficiently increased to enable public officials

to make the financial sacrifice. I would re-submit the proposed amendment raising the Attorney General's salary, or provide for calling a constitutional convention to make a new schedule of salaries for all the state officers, and many other needed changes in our organic law.

Provision for a residence for the Governor should be made. Notwithstanding all that has been said, only one Governor of South Dakota has ever rented a house at the capital and moved his family into it to remain during his term of office. Governor Elrod did this. The others boarded at the hotel,-their wives being with them part of the time,- and came and went like other boarders. No legal method can be devised by which they can draw money for expenses without vouchers. Attempts to do this are exposed to great abuse and are unconstitutional. As soon as the burden of the building of the new capitol is out of the way, an Executive Dwelling should be built for the use of the

Executive and his family, as is done in nearly all the states. In the meantime, if it is insisted that the Governor shall move his family to Pierre to remain during his term of office, I suggest that an appropriation be made to pay his rent and expenses of moving, vouchers for the same to be audited and filed in the same manner 'as is required in case of other expenditures for his office.

SUPERINTENDENT OF PUBLIC INSTRUCTION-EDUCATION COMMON SCHOOLS

You will find the report of Hon. Hans A. Ustrud, Superintendent of -Public Instruction, an interesting review of the educational work done in our great system of common schools during the biennial period. The enthusiasm with which he has plead for better conditions in the rural schools, for improvement in the grounds and surroundings, and for better school houses, has spread to others.

Meetings with county and district school officers and school patrons have been held in all sections of the state. The large attendance and keen interest everywhere shown in the efforts to improve the rural schools of the state, are gratifying. The legislature of '907 made a thorough revision of the school law and it appears to have given general satisfaction.

The recommendations of the Superintendent are entitled to your consideration.

PRIMARY ELECTION LAW

Two years ago, in keeping with its platform pledge previously made, the Legislature enacted a comprehensive Primary Election Law. During the year 1908, the several political parties made their party nominations under this law and the dominant party selected its party candidate for the United States Senate, the law providing that the endorsement by popular vote "shall have the force and effect of an instruction to such members of the legislature of the same political party as were nominated in the same primary election, to vote for and support such candidate in the legislature for the office of United States Senator."

Our primary election law in its general and essential features is similar to that enacted in Kansas, Nebraska, Iowa, Illinois, Wisconsin, Washington and a number of other states. As a system governing political party management and nominations, it has come to stay. No instance has been reported where it has been repealed.

Governor Hughes of New York has recommended it to the legislature of his state and it is the subject of vigorous agitation and discussion in New Hampshire. The platform of the republican party of South Dakota, adopted in July, after the law had been tried, declares

"We approve the principle of the primary law and suggest such amendments only as may be necessary to make it more simple and effective."

A general attack was made upon this law in the Supreme Court of the state last May in which its constitutionality was questioned and every possible objection urged. The general provisions of the law were sustained. Two provisions, however, were held to be invalid, to-wit

Sections 8 and 10, which required candidates for nominations to pay a designated fee at the time of filing their nominating petitions, the money received to be covered into the general fund to reimburse the county for expenses incurred in holding the primary; also the clause in section 65, which reads : "Each county shall be entitled to one delegate to each party state convention for every one hundred votes or major fraction thereof, cast by such political party in said county for its party candidate for governor at the last preceding general election;" also the following proviso in sub-division 3 of Section 66; "Provided, that whenever two-thirds of the members of the County Central Committee of the several political parties of any county at a regularly called

meeting, shall decide that there is not a sufficient contest over the selection of delegates from such county to the state conventions, called to elect delegates to national conventions, to justify the expense of holding a county convention, such county central committee shall have the power to name the delegates from said county, and the chairman and secretary of the proper committee shall sign the delegate credentials."

As each of the clauses quoted can be dropped from the statute without invalidating the remainder, and the Court having so held, I recommend that the sections above referred to be amended by eliminating them.

Every fourth year, it will be necessary to choose delegates to attend the national party conventions of the respective political parties, some of which are usually held in June, too early to allow the delegates to be chosen at the regular June primaries. As the law now stands, Section 67 provides for holding county primaries on the second Tuesday in March every fourth year to elect precinct delegates to a county convention to be held on the fourth Tuesday in March to choose delegates to a state convention to be held on the first Tuesday in April 1908, and quadrennials thereafter, to elect delegates to national conventions. This procedure can be greatly simplified by doing away with the county and state convention and the selection of precinct and county delegates for this purpose every four years, and substituting therefore a simple provision for filing nominating petitions for candidates for delegates to the national convention in the office of the Secretary of State, and authorizing a direct vote for national delegates at a state primary held on the first Tuesday in April each fourth year, providing, that when the national conventions of all parties having organizations in this state, are called not earlier than the third week in June, the delegates to such national conventions shall be chosen at the regular June primaries.

A few changes of this character simplifying the primary law should be made, but its general scope and provisions in detail should not be changed. It rests upon the fundamental principle that in the making of a ballot, full opportunity should be given to the individual voter desiring to act with a political party, to directly express his opinion as to what candidates his party should nominate, and what principles it should advocate, and guaranteeing to him a fair count and return of his nominating vote, the

majority, or a given plurality of the votes, to determine; that this principle of choice should be applied to the party nomination of all county, state, congressional, and judicial officers,-including party candidates for the United States Senate. This fundamental right of choice must be preserved. It lies at the foundation of popular representative government.

For one, I do not believe the alphabetical arrangement of names upon the primary ballot gives any material advantage in favor of the first name. At the late primaries, Blewitt, candidate for nomination as Attorney General, came before Clark, but Clark

was nominated by a majority of ^{8,143}; Finnerud, candidate for National Committeeman, came before Thorson, but Thorson was elected by a majority of nearly 5,000; Cassill for State Treasurer, preceded Johnson, but Johnson received a majority of 2,640; Ramer for Superintendent, preceded Ustrud, but the latter won by nearly 2,000; Hall and Glass for Congress, preceded Martin, but the latter received a higher vote than either of them. Some of the successful candidates belonged to one faction, some to another, and whether we were pleased with the result in any given case or not, it shows that the individual voter expressed his individual judgment with discrimination.

This is exactly what is aimed at, and any plan that will impair or lessen the opportunity given to the individual voter to express himself not only upon the question of what should be adopted as a party principle, but also as to the fitness of the individual candidates seeking a place upon his party ticket, will seriously injure the purpose of the law.

TUBERCULOSIS

No other disease preys upon the masses and prevails among all classes of people like tuberculosis, commonly known as consumption. Scarcely a family but has suffered from its ravages. It was formerly believed to be hereditary, but a better knowledge of it shows that such is not the case. It is an infectious disease, and what is needed more than all else, is a wider dissemination of knowledge about the manner in which it is spread among people, and the simple preventives within the reach of all by which its advances may be checked. It is claimed by many, who have given the disease the most careful study, that tuberculosis in cows and other domestic animals, may infect human beings. In its earlier

stages the disease is curable and isolation is necessary to check its spreading. Many states maintain sanitariums for this purpose.

Practically all of them are making the spread of this disease a matter of state concern. I recommend that a special Commission be authorized to be appointed by the Governor from among the most reputable and specially fitted physicians of the state to investigate the extent of this disease in our state and to collect and distribute reliable literature, which will assist in educating the public as to the means by which its spread among the people may be checked, and the simple remedies by which cures in its earlier stages may be affected ; that the Commission thus appointed be required to make its report to the next legislature and that a small appropriation be made for this purpose. While we are doing so many helpful things to conserve our material resources, we must not neglect to do those things necessary to preserve man himself.

CONCLUSION

For two years my associates in office and myself have been charged with the burden of administering the public affairs of this great state under the commission we received from her people in 1906. The record has been made. How well we have performed the task, we must leave to the judgment of all fair-minded citizens. While at times, the unfairness of partisan critics and the savagery of political strife,-with all sorts of attacks based upon shameless falsehood,-have attempted to obstruct and hinder the work we set out to do, yet on the whole, we have enjoyed that work, and it is with a feeling of sincere regret, that I bid good-bye to the brave and loyal men who have made it possible to accomplish what has been done.

To you, Gentlemen of the Eleventh Legislative Assembly, and to you, Governor-Elect Vessey, and to each of the state officers about to be installed, I present this review, and, in behalf of all the retiring state officers, and of all the people, I wish to express the hope that you may have a most prosperous administration, and that peace and happiness and good health may attend you and yours ; and that God may continue to bless our splendid young Commonwealth.

COE I. CRAWFORD,
Retiring Governor of South Dakota.

PARDONS, REPRIEVES AND PAROLES

The following is a list of the prisoners confined at the State Penitentiary who were released by pardon or parole or by an order diminishing term of sentence, during the years 1907-1908:

WILLIAM FITZPATRICK, sentenced December 1st, 1904, from Roberts county; crime, manslaughter in the first degree; term, 12 years at hard labor; pardoned February 4, 1907. Pardon was granted upon the recommendation of the State Board of Pardons.

HARVEY EADES, sentenced May 25th, 1905 from Miner county; crime, grand larceny : term, 4 years ; pardoned February 21, 1907. Pardon was granted upon the recommendation of the State Board of Pardons, said recommendation being based upon the youth of the prisoner, his previous good reputation, and the circumstances under which the crime was committed.

CHARLES LYONS, sentenced from Minnehaha county ; crime, bigamy ; term, 4 years ; the period of confinement of this prisoner was diminished 30 days by order of the Governor under date of April 11, 1907. This order was made upon the recommendation of the State Board of Charities and Corrections, because of the exemplary conduct of the prisoner, he having been studious, industrious and considerate of the rules of the prison, and not by nature a man of criminal tendencies. The Warden of the Penitentiary felt that this was a worthy case and that no mistake would be made in confirming the recommendation of the Board. The above action was taken by the Governor, as provided for in Section 699 of the Code of Criminal Procedure, Codes of 1903.

THEODORE KOEHN, sentenced from Grant county on November 14, 1906 ; crime, keeping a house or place for persons to visit for unlawful sexual intercourse; term, ten months ; pardoned July 1st, 1907. A petition for the pardon of above prisoner was presented to the Governor, which was signed by over 100 reputable

citizens and residents of Grant county. Hon. J. H. McCoy, the Presiding judge, who accepted the plea of guilty and imposed sentence upon the prisoner, also joined in recommending the pardon. The Warden of the Penitentiary, in a written statement said: "This man has been a model and upright prisoner since he was incarcerated, having complied with all the prison rules. I take pleasure in making this favorable report."

HERMAN E. HOWLAND, sentenced from Lake county on October 25th, 1906; crime, bigamy ; term, one year; paroled June 26, 1907. The judge who imposed the sentence in a communication to the Warden, said: "He is a laboring man here. Never had committed any crime before that is known ; is penitent and will, no doubt, become a law-abiding citizen upon his release. He is not naturally a criminal." The Warden of the Penitentiary in a report to the State Board of Charities and Corrections, stated that the prisoner had been confined a sufficient length of time to accomplish his reformation, and that he could be paroled without danger to society, and recommended him to the Board for investigation with a view to being paroled. Upon this report of the Warden, the Board recommended to the Governor that said prisoner be paroled as provided for in the laws of this state. Amiel Haack, a citizen of Miner county, guaranteed employment of the prisoner as soon as paroled, such employment to continue until the prisoner was officially discharged.

ELMER SYDNEY JORDAN AND RICHARD BREUSCH
WEILLER, sentenced from Clay County on April 4, 1906 ; crime, arson; term, 5 years each : pardoned August 26. 1907. Above pardon was granted upon the recommendation of the State Board of Pardons. Almost the entire community at Vermillion, where the offense was committed, united in asking that the young men be pardoned.

W. N. McFadden, sentenced from Lyman county on January 9. 1907; crime, obtaining money by means of false pretenses term, one year and six months; paroled November 1, 1907. Said parole was made upon the recommendation of the State Board of Charities and Corrections, which Board had received from the Warden a favorable report as to his conduct while incarcerated.

One W. S. Wyman of Beadle county, guaranteed employment to the prisoner as soon as paroled, said employment to continue until prisoner was officially discharged.

ISRAEL CALKINS, sentenced from Fall River county on December 20, 1906; crime, grand larceny ; term, 2 years ; paroled under the state law December 2, 1907. A petition for his pardon was presented to the Governor signed by a number of citizens of Fall River county. A remonstrance against this pardon was also presented. On October 23, 1907, said application for pardon was denied. Soon after, however, it appeared that this prisoner had sustained a severe stroke of paralysis, and a certificate of the prison authorities was forwarded to me to the effect that he was hopelessly afflicted and could not recover and that his condition was such that he could not live more than a very short period. The Warden and State Board of Charities and Corrections recommended that he be released upon parole and sent to his wife, who resided near Hot Springs, S. D., who agreed to take care of him during the period of his parole. Hon. Levi McGee, presiding judge who sentenced him, also recommended that a parole be granted. The state's attorney who prosecuted the prisoner, also consented to the parole.

OTTO ERICKSON, sentenced from Butte county on May 3, 1905; crime, manslaughter in the second degree; term, three and one-half years; on December 2, 1907, an order was sent to the Warden diminishing his period of confinement thirty days in addition to the good time allowance. Said order was made upon the recommendation of the State Board of Charities and Corrections and the Warden. It appears that the prisoner notified the prison officers of an assault being made on the prison steward on October 3, 1907. On this account, the warden recommended that he should be awarded this allowance, not wholly on his account, but for the effect it would have in connection with other prisoners.

HAIDEN C. EDMUNDS, sentenced from Clay county on November 7th, 1906; crime, manslaughter in the first degree ; term, four years; pardoned December 24, 1907. Said pardon was granted on the recommendation of the State Board of Pardons.

CHARLES HORN, sentenced from Clark county on February 24, 1906 ; was committed to the penitentiary on June 11th, 1907 ; crime, shooting at another with intent to injure ; term, one year at hard labor; pardoned January 27, 1908. A petition signed by 174 reputable citizens of Clark county was presented to the Governor; said petition included the names of ten of the jurors, including the foreman, who tried the cause. Hon. George H. Marquis, the Presiding judge, who sentenced the prisoner, also recommended the pardon; so did Logan Berry, the state's attorney who prosecuted the case, in a letter to the Governor under date of. November 4, 1907. The present state's attorney of Clark county also recommended the pardon. The Warden in a communication to the Governor stated that the prisoner had complied with all the prison rules and had been a model, prisoner during confinement.

VERN MOULTON, sentenced from Faulk county on July 11th 1907; crime, grand larceny; term, nine months ; pardoned, January 28, 1908. It appears that the prisoner is a young man, who, at the time of his sentence was 2b years of age, and had a wife and one child. A petition for his pardon was presented to the Governor signed by over 30 prominent and respected citizens of Faulk county, who had known the prisoner and his parents for ten years. This petition was followed by a second petition containing the signatures of over 9o leading citizens of that county. The Governor also received recommendations that the prisoner be pardoned from the following: E. H. Thayer, Faulkton, whose property was at stake in this case, Lyman T. Boucher, Circuit Judge, J. H. Bottum, State's Attorney, Faulk county, who prosecuted the case, W. B. Foncannon, deputy sheriff, Faulk county, F. M. Byrne, state senator, J. A. Pickler and D. H. Latham, Attorneys. The Warden also reported that the prisoner had conducted himself in a becoming way and had no criticism to make of his behavior.

CHARLES LOCKHART, sentenced from Hughes county on November 15, 1906 ; crime, larceny; term, eighteen months at hard labor ; pardoned January 30, 1908. Pardon was based on the recommendation of Hon. Lyman T. Boucher, judge, the favorable prison record of the prisoner, and his youth.

MATTHIAS M. WAGNER, sentenced from Sully county, . April 24, 1907; crime, grand larceny; term, one year. An order granting pardon to save Wagner's citizenship was made on Feb. 5, 1908, whose term would have expired on February 23, 1908.

The states attorney of Sully county, in a communication, stated that he had no objection to the granting of a pardon, as he was informed that his behavior in prison had been good. The Warden, under date of January 10, 1908, stated that Wagner had been a first class prisoner in every way, having complied with all the rules of the institution. Prominent citizens of Sully county,. in communications to the Governor, stated that while the prisoner did wrong, he is a young man who had been raised under bad environments. But the belief was expressed that a pardon granted to save his citizenship would be in the interest of justice, and was necessary to protect some right he had as a homestead claimant.

HARRY A. JONES, sentenced from Yankton county on April 16, 1906 ; crime, robbery in the first degree ; term, five years; pardoned February 18, 1908, on the recommendation of the State Board of Pardons.

D, A. FRISBIE, sentenced from Pennington county on November 14, 1907; crime, grand larceny ; term, ten months; pardoned March 17, 1908. Said pardon was based upon the following

1. Application signed by a large number of leading citizens in the neighborhood where the prisoner resided, and by old acquaintances in Iowa, where he resided before coming to South Dakota. The application is also signed by R. C. Richards, General Claim Agent of the C. & N. W. Ry. Co., from which company the property was taken, which was the basis of the charge against the prisoner.

2. His family was in great need of assistance, they living on a claim and having very little to carry them through with.

3. Statement of the state's attorney of Pennington county that the property taken by the prisoner consisted of flour, hams and building material, and the mitigating circumstances appear to have been the desperate poverty and need of his family, which was suffering from actual want.

W. L. WELLS, sentenced from Davison county on May 6, 1907, and committed to the penitentiary on May 6, 1907; crime, forgery in the third degree; term, one year and six months; paroled April 3, 1908, upon the recommendation of the State Board of Charities and Corrections, according to law. One P. H. Kelley, a citizen of Davison county, who is vouched for by the County judge, guaranteed employment to the prisoner at a fair remuneration.

RICHARD GODDARD, sentenced from Custer county on October 24, 1907, and committed to the penitentiary October 24, 1907; crime, grand larceny; term, eight months; paroled April 6, 1908 upon the recommendation of the Board of Charities and Corrections, which was submitted to the Governor, March 17, 1908. Hon. Thomas M. Goddard, father of the prisoner, guaranteed employment to the prisoner until his official discharge. It appears from the record that the prisoner, at the time of granting the parole, was 24 years of age; that he is of good family and previous good character; that he is married and had a wife and two children dependent upon him for support; that he is industrious and had heretofore been regarded as honorable and trustworthy.

JOHN GERGEN, sentenced from Meade county on April 21, 1904, and committed to the penitentiary on April 24, 1904; crime, shooting with intent to kill; term, six years and six months; paroled April 18, 1908, upon the recommendation of the State Board of Charities and Corrections. J. P. Gergen guaranteed employment of said prisoner until his official discharge.

ERVIN M. HILTON, sentenced from Lawrence county on February 21, 1908; crime, grand larceny ; term, one year and four months; pardoned, August 4, 1908. Accompanying the application for pardon was a petition signed by 187 prominent and reputable citizens of Lawrence county, including the postmaster at Deadwood, seven members of the City Council of Deadwood, members of the legislature from said county, together with county officers and the complaining witness. The application is endorsed by judge W. G. Rice, and the state's attorney. The warden writes that the prisoner has been a model one in every respect. Eleven

of the jurors signed the petition for pardon, the twelfth having left the state. It appeared that the prisoner was a young man and was thoroughly repentant.

ELMER B. DAHL, sentenced from Hyde county on December 3, 1906; crime, forgery in the third degree; term, two and one-half years ; an order diminishing his period of confinement 30 days was signed by the Governor on August 18, 1908, on account of his diligence in labor and good behavior, as provided for in Article 5 of Section 699, Revised Code Criminal Procedure.

JOHN H. LARKIN, sentenced from Butte county on the 21st day of June, 1905; crime, forgery in the second degree; term, five years; pardoned October 1st, 1908, upon the recommendation of the State Board of Pardons.

HOMER YETTER, sentenced from Codington county on December 9, 1907; crime, assault with intent to commit rape ; term, 18 months ; pardoned October 28, 1908. A petition containing over 70 signatures of prominent citizens of Codington county was presented, the state's attorney who prosecuted the case, joining therein. Judge Marquis recommended that a pardon be granted on the ground that his punishment had been sufficient, as a warning to others, and on account of his family. It appears from the testimony in the case that the crime, if one was committed, was not consummated and that possibly the motive of the prisoner was not to commit the offense of which he was charged. He is a young man and had never been charged with a crime before.

RICHARD. PARDOE, sentenced from Davison county on May 6, 1807; crime, burglary: term, two years ; his sentence was diminished 30 days on the recommendation of the State Board of Charities and Corrections.

MYRTELLE HIGGINS sentenced from Beadle county on June 20, 1908; statutory offense: term, one year; pardoned Nov. 23, 1908. Petition was presented to the Governor signed by 30 of the most prominent and respected citizens of Pennington county. where the prisoner resided for many years, who have known her for many years. Said prisoner had heretofore borne a good reputation. The petitioners further state that she has always been

faithful and industrious and has provided for her child and kept him in school. Judge Levi McGee, and the Sheriff of Beadle county joined in recommendations to the Governor in the form of letters. The oral recommendation of the matron of the state penitentiary was also taken into consideration.

G. A. ADAMSON, sentenced from Turner county at the September, 1907, term of court; crime, forgery in the third degree; term, three years. Confined in the penitentiary since September 16, 1907. Pardoned December 14, 1908, upon the recommendation of the State Board of Pardons.

WALTER J. MACKELLER, sentenced from Lawrence county on May 27, 1907; crime, grand larceny ; term, four years at hard labor. Pardoned December 14, 1908, upon the recommendation of the State Board of Pardons.

FRANK TAYLOR, sentenced from Codington county on November 28, 1903; crime, burglary in the third degree; term, eight years; pardoned December 17, 1908, upon the recommendation of the State Board of Pardons.

ED LYNCH, sentenced from Hutchinson county on October 30, 1903 ; crime, burglary in the first degree ; term, ten years; pardoned December 17, 1908, upon the recommendation of a majority of the members of the State Board of Pardons.